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LAWS  
OF THE  
STATE OF UTAH,

PASSED AT THE  
SIXTH REGULAR SESSION

OF THE  
Legislature of the State of Utah,

HELD AT  
SALT LAKE CITY, THE STATE CAPITAL, IN JANUARY,  
FEBRUARY AND MARCH, 1905.

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1905.



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Page 32, Sec. 5, Line 1, transpose the words "or" and "persons."  
 Page 32, Sec. 5, Line 4, before the word "on" insert "the same."  
 Page 40, Sec. 4, Line 11, "or record" should be "of record."  
 Page 54, Sec. 4, Line 1, "unexpected" should be "unexpended."  
 Page 58, Sec. 1, Line 3, "1032" should be "1022."  
 Page 62, Sec. 8, Line 6, "save" should be "have."  
 Page 65, Sec. 1, Line 4, "1800" should be "1890."  
 Page 68, Chap. 60, Sec. 1, Line 3, "3925" should be "3952."  
 Page 81, Line 31, "twenty-five cents" should be "twenty cents."  
 Page 111, Chap. 95, Sec. 1, Line 4, "1915" should be "1916."  
 Page 146, Sec. 5, Line 15, "and" should be "or."  
 Page 196, Sec. 25, Line 13, "and" should be "any."  
 Page 209, Line 8 of title "188" should be "1898."  
 Page 250, Sec. 444, Line 4, before the word "the" insert "as."

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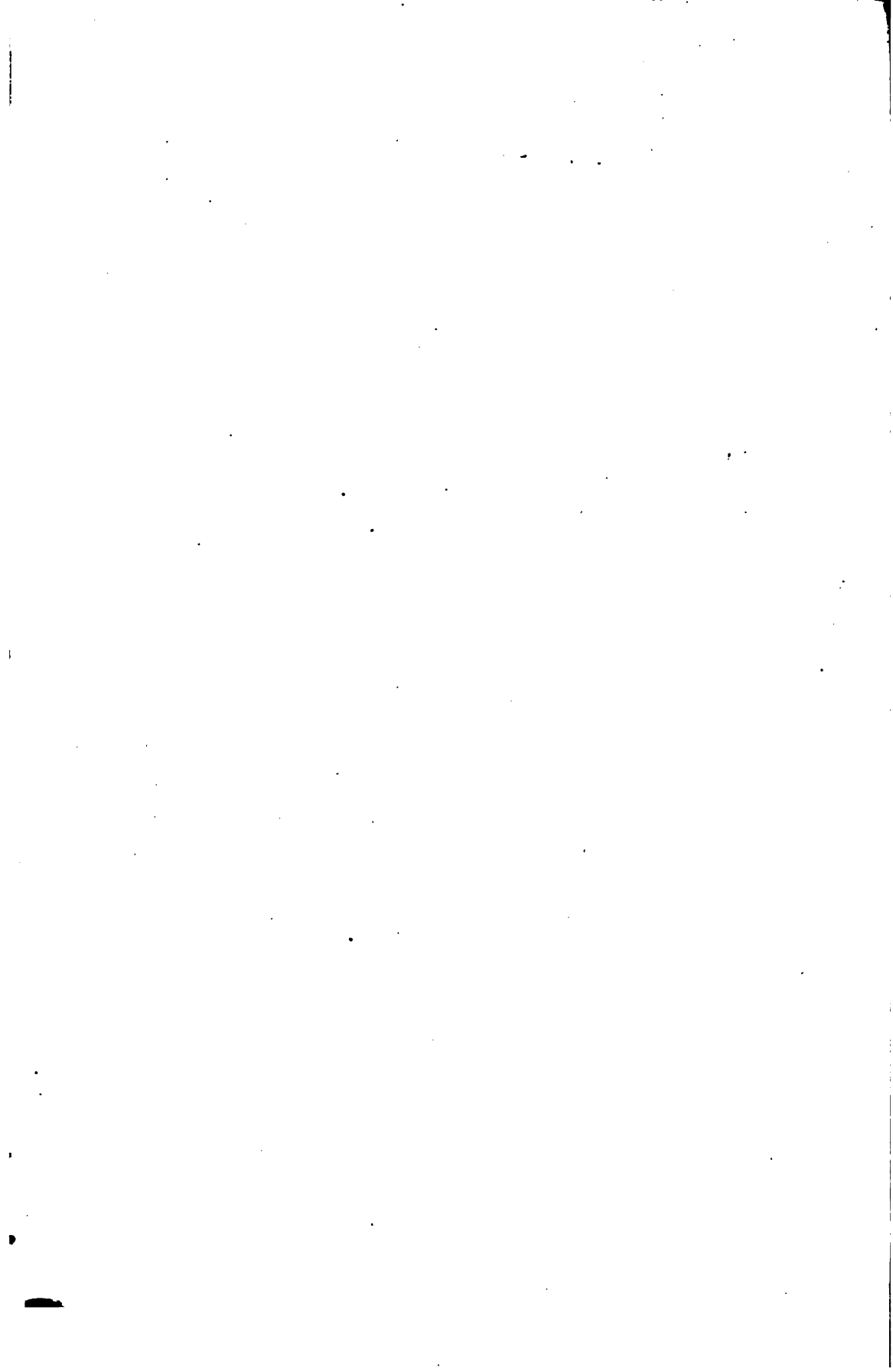
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## CERTIFICATE OF AUTHENTICATION.

---

State of Utah,  
Office of the Secretary of State. } ss.

I, Charles S. Tingey, Secretary of State of the State of Utah, do hereby certify:

That the acts and joint resolutions published in this volume, beginning on page 1 and ending on page 273, are full true and correct copies of the originals passed at the Sixth regular session of the Legislature of the State of Utah (1905), as the same appear on file in this office;

That each act which the legislature directed should take effect upon approval received the vote of two-thirds of all members elected to each house;

That all acts and joint resolutions published in this volume were officially published on the 9th day of May, 1905;

That the Sixth Regular session of the Legislature of the State of Utah adjourned sine die on the 9th day of March, A. D. 1905.

IN TESTIMONY WHEREOF, I have hereunto  
set my hand and affixed the Great Seal of  
the State of Utah.

[SEAL.]

Done at my office this 9th day of May, A. D.  
1905.

CHARLES S. TINGEY,  
Secretary of State.



# LAWS

OF THE

# STATE OF UTAH.

---

PASSED AT THE SIXTH REGULAR SESSION OF  
THE LEGISLATURE, 1905.

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## CHAPTER 1.

### CONTINGENT EXPENSES OF LEGISLATURE.

**An Act to provide for the regular and contingent expenses of the sixth session of the Legislature of the State of Utah.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Legislative Contingent Expenses.** That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of the funds of the state treasury for the purpose of defraying the regular and contingent expenses of the sixth session of the Legislature; and the State Auditor shall draw his warrant on the State Treasurer for such money, or any portion thereof, upon the request, in writing, of the president and secretary of the Senate and speaker and chief clerk of the House of Representatives.

**Sec. 2.** This act shall take effect upon approval.

Approved this 12th day of January, 1905.

**CHAPTER 2.****PAYMENT EXPENSE NATIONAL GUARD ON DUTY IN CARBON COUNTY.**

**An Act to provide for the payment of the expenses of the National Guard of Utah while on duty in Carbon County in 1903 and 1904.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Appropriation for National Guard while in Carbon County.** That the sum of twenty-five thousand six hundred and twenty-five dollars is hereby appropriated out of the funds of the state treasury for the purpose of defraying the expenses of the National Guard of Utah while on duty in the protection of life and property and the maintenance of law and order in Carbon County of this State, in the months of November and December, 1903 and January, 1904, in accordance with vouchers heretofore audited by the State Board of Examiners and now on file in the office of the State Auditor; and the said Auditor shall draw his warrant on the State Treasurer for said amount upon the requisition of the State Board of Examiners.

**Sec 2.** This act shall take effect upon approval.

Approved this 23rd day of January, 1905.

---

**CHAPTER 3.****FORGING AND COUNTERFEITING.**

**An Act to amend section 4343 of the Revised Statutes of Utah, 1898, relating to forging and counterfeiting.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Forging and Counterfeiting.** That Section 4343, of the Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**Section 4343.** Every person who, with intent to defraud another, falsely makes, alters, forges, or counterfeits any charter, letters patent, deed, lease, indenture, writing obligatory, will, testament, codicil, annuity, bond, covenant, bank bill or note, money order, check, draft, bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, passage ticket, power of attorney, or any certificate of any share, right, or interest in the stock of any corporation or association, or any auditor's warrant for the payment of money at the treasury, or any state, county, city,



or town order or warrant, or request for the payment of money, or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing or acquittance, release or receipt for money or goods, or any acquittance, release or discharge for any debt, account, suit, action, demand, or other thing, real or personal, or any transfer or assurance of money, certificates of shares of stock, goods, chattels, or other property whatever, or any letter of attorney or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands, or tenements, or other estate, real or personal, or any acceptance or indorsement of any bill of exchange, promissory note, draft, order, or assignment of any bond, writing obligatory, or promissory note for money or other property, or any letter of service, clearance card or union labor card, or time checks, or other evidence of indebtedness, or any card of any lodge of any benevolent, charitable or fraternal order, or any post of the Grand Army of the Republic or commandery of the Royal Legion or counterfeits or forges the seal or handwriting of another, or any official certificate; or utters, publishes, passes, or attempts to pass as true or genuine, any of the above-named false, altered, forged, or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged, or counterfeited, with intent to prejudice, damage, or defraud any person; or who, with intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery.

Sec. 2. This act shall take effect upon approval.

Approved this 6th day of February, 1905.

---

#### CHAPTER 4.

#### AUTHORIZING CONTRACTS FOR CONDITIONAL SALE OF RAILROAD EQUIPMENT AND ROLLING STOCK, AND RECORDING.

An Act "authorizing certain contracts for the conditional sale, lease or hire of railroad and street railway equipment and rolling stock, and providing for the recording thereof."

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. Conditional sale railroad equipment. Recording Contract. In any contract for the sale of railroad or street railway equipment or rolling stock it shall be lawful to agree that title to the property sold or contracted to be sold, although possession thereof may be

delivered immediately or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase money. And in any contract for the leasing or hiring of such property it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract, may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or bailee until the purchase price shall have been paid in full, and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by such lessee or bailee; *Provided*, that no such contract shall be valid as against any subsequent judgment creditor or any subsequent bona fide purchaser for value and without notice, unless (1) the same shall be evidenced by an instrument executed by the parties and duly acknowledged by the vendee, lessee or bailee, as the case may be, or duly proved before some person authorized by law to take acknowledgments of deeds, and in the same manner as deeds are acknowledged or proved; (2) such instrument shall be filed for record in the office of the Secretary of State of this state; (3) each locomotive engine or car so sold, leased or hired, or contracted to be sold, leased, or hired as aforesaid, shall have the name of the vendor, lessor, or bailor plainly marked in letters not less than one inch in size on each side thereof, followed by the word "owner." or "lessor," or "bailor," as the case may be.

**Sec. 2. Recorded by Secretary of State. Release. Fee.** The contracts herein authorized shall be recorded by the Secretary of State in a book of records to be kept for that purpose. And on payment in full of the purchase money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect shall be made by the vendor, lessor or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made by a separate instrument, to be acknowledged by the vendor, lessor or bailor, or his or its assignee and recorded as aforesaid. And for such services the Secretary of State shall be entitled to a fee such as is allowed by law for recording like instruments.

**Sec. 3. Not retroactive.** This act shall not be held to invalidate or affect in any way any contract heretofore made of the kind referred to in the first section hereof, and any such contract heretofore made may, upon compliance with the provisions of this act, be recorded as herein provided.

Approved this 11th day of February, 1905.

**CHAPTER 5.****TIME FOR FILING CLAIMS AGAINST INCORPORATED CITIES AND TOWNS.**

An Act amending Sections 312 and 313 of the Revised Statutes of Utah, 1898, as amended by chapter 19 of the laws of Utah, 1903, defining the time within which claims against incorporated cities and towns must be filed.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION. 1.** That sections 312 and 313 of the Revised Statutes of Utah, 1898, as amended by chapter 19 of the laws of Utah of 1903, be, and the same hereby are amended to read as follows:

**312. Claim, time for presenting. Action on.** Every claim against an incorporated city or town for damages or injury alleged to have been caused by the defective, unsafe, dangerous or obstructed condition of any street, alley, crosswalk, sidewalk, culvert or bridge of such city or town, or from the negligence of the city or town authorities in respect to any such street, alley, crosswalk, sidewalk, culvert, or bridge shall within thirty days after the happening of such injury or damage, be presented to the City Council of such city, or Board of Trustees of such town, in writing signed by the claimant or by some person by claimant authorized to sign the same, and properly verified, stating the particular time at which the injury happened, and designating and describing the particular place in which it occurred, and also particularly describing the cause and circumstances of the said injury or damages, and stating, if known to claimant, the name of the person, firm or corporation, who created, brought about or maintained the defect, obstruction or condition causing such accident or injury, and also stating the nature and probable extent of such injury and the amount of damages claimed on account of the same; such notice shall be sufficient in the particulars above specified to enable the officers of such city or town to find the place and cause of such injury from the description thereof given in the notice itself without extraneous inquiry, and no action shall be maintained against any city or town for damages or injury to person or property, unless it appears that the claim for which the action was brought was presented as aforesaid to the City Council or the Board of Trustees of the town, and that such Council or Board did not within ninety days thereafter audit and allow the same. Every claim, other than claims above mentioned against any city or town must be presented properly itemized or described and verified as to correctness by claimant or his agent, to the City Council or Board of Trustees within one year after the last item of such account or claim accrued, and if such account or claim is not properly or sufficiently itemized, or described or verified, the City Council or Board of Trustees may require the same to be made more specific as to the itemization or description, or to be corrected as to the verification thereof.

**Claim barred if not presented.** It shall be a sufficient bar and defense to any action or proceeding against a city or town in any court for the recovery of any claim mentioned in section 312, that such claim had not been presented to the city council of such City, or to the board of trustees of such town in the manner and within the time in section 312 specified, provided that in case an account or claim, under such a claim made by damages in account of the unsafe, defective condition or continued existence of any street, alley, crosswalk, or other place where travel is conducted by the Council or Board of the municipality specified as to location or description, or to its proper parties sufficient time shall be allowed the claimant to comply with such requirements.

Approved this 17th day of February, 1905.

## CHAPTER 6.

**PROCEEDINGS TO WHOM PROCESS SHALL RUN FROM MUNICIPAL COURTS.**

An Act amending section 20, chapter 112 of the laws of Utah, 1901, as amended by chapter 126, laws of Utah, 1903, providing to whom process shall run from municipal courts.

Enacted by the Legislature of the State of Utah:

**Section 1.** That section 20, chapter 112, laws of Utah, 1901, as amended by chapter 126, laws of Utah, 1903, be and the same is hereby amended to read as follows:

**20. Process, to whom to run.** All process from municipal courts shall run to the sheriff or any constable of the county, and in criminal actions where the city is plaintiff, also to the chief of police or any member of the city police force, that in all actions in which process shall be returnable to the sheriff or any constable of the county in which said court is located, process shall run to the sheriff or any constable of the county in which the action is to be tried.

Approved this 17th day of February, 1905.

## CHAPTER 7.

## BILL OF EXCEPTIONS.

An Act to amend section 3286 of the Revised Statutes of Utah, 1898, relating to preparation, settlement and signing of bill of exceptions. Time allowed.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 3286, of the Revised Statutes of Utah, 1898, be amended to read as follows:

3286. Preparation, settlement and signing of bill of exception. Time allowed. When a party desires to have exceptions taken at a trial settled in a bill of exceptions, he may, within thirty days after the entry of judgment if the action were tried with a jury, or after service of notice of the entry of judgment if the action were tried without a jury, or after service of notice of the determination of a motion for a new trial, prepare a draft of a bill and serve the same, or a copy thereof, upon the adverse party. Such draft must contain all the exceptions taken upon which the party relies. Within ten days after such service the adverse party may propose amendments thereto, and serve the same, or a copy thereof, upon the other party. The proposed bill and amendments must, within ten days thereafter, be presented by the party seeking the settlement of the bill to the judge who tried or heard the case, upon five days' notice to the adverse party, or be delivered to the clerk of the court for the judge. When received by the clerk, he must immediately deliver them to the judge, if he be in the county; if he be absent from the county, and either party desires the papers to be forwarded to the judge, the clerk must, upon notice in writing from such party, immediately forward them by mail or other safe channel; if not thus forwarded, the clerk must deliver them to the judge immediately after his return to the county. When received from the clerk, the judge must designate the time at which he will settle the bill, and the clerk must immediately notify the parties of such designation. At the time designated, the judge must settle the bill. If no amendments are served, or if served are allowed, the proposed bill may be presented, with the amendments, if any, to the judge for settlement, without notice to the adverse party. It is the duty of the judge, in settling the bill, to strike out of it all redundant and useless matter, so that the exceptions may be presented as briefly as possible. When settled, the bill must be signed by the judge, with his certificate to the effect that the same is allowed, and shall then be filed with the clerk. A bill of exceptions shall in all cases be prepared, settled, signed and filed within ninety days after the entry of judgment, or after no-

tice of the same if the action were tried without a jury, or after notice of the determination of a motion for a new trial.

Approved this 15th day of February, 1905.

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## CHAPTER 8.

### AUTHORIZING RECORDERS TO TAKE ACKNOWLEDGMENTS AND ADMINISTER OATHS.

An Act amending section 628 of the Revised Statutes of Utah, 1898, authorizing recorders to take acknowledgements and administer oaths.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 628 of the Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

628. Recorder may take acknowledgments, administer oaths. It shall be the duty of recorders to take acknowledgments of all instruments authorized by law to be acknowledged, and to administer oaths.

Sec. 2. This act shall take effect upon approval.

Approved this 15th day of February, 1905.

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## CHAPTER 9.

### JUDGES ACTING AS ATTORNEYS.

An Act to amend section 693, Revised Statutes of Utah, 1898, relating to judges acting as attorneys.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 693, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

693. Judge cannot act as attorney. Exception. A justice of the supreme court, or a judge of the district court, or a judge of a city court, or a judge of a municipal court, cannot act as an attorney or counsel in the court of which he is a judge, or in any other court, except in an action or proceeding to which he is a party of record; *provided* that a judge of a city court and a judge of a municipal court, shall be permitted to practice before the district courts in this state in uncontested probate matters.

Approved this 16th day of February, 1905.

**CHAPTER 10.****MOTIONS AND ORDERS.**

**An Act to amend section 3329 of the Revised Statutes of Utah, 1898, relating to motions and orders.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 3329, of the Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**3329. Time may be extended in all cases, except notice of appeal.** When an act to be done as provided in this code relates to the pleadings in the action, or the undertakings to be filed, or the justification of sureties, or the preparation, service, filing or presentment of bills of exception, or of amendments thereto, or to the service or filing of notices other than of appeal, the time allowed by this code may be extended, upon good cause shown, by the court in which the action is pending, or by a judge thereof.

Approved this 16th day of February, 1905.

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**CHAPTER 11.****DISMISSAL OF ACTIONS PENDING BEFORE A JUSTICE OF THE PEACE.**

**An Act amending section 3724 of the Revised Statutes of Utah, 1898, relating to the dismissal without prejudice of actions pending before a justice of the peace.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 3724, of the Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**3724. When action dismissed without prejudice.** Judgment that the action be dismissed without prejudice to a new action may be entered, at plaintiff's cost, in the following cases:

1. When the plaintiff voluntarily dismisses the action before it is finally submitted.
2. When he fails to appear at the time fixed by the justice for the trial, or within one hour thereafter.
3. When the complaint of the plaintiff is not verified.
4. When, after a demurrer to the complaint has been sustained, the plaintiff fails to amend it within the time allowed by the court.
5. When upon the special appearance of the defendant, it is

found from affidavits filed by either party that the action is brought in the wrong county, precinct, or city; and if such objection is made by a party, specially appearing for the purpose, and overruled, then the ruling of the Court upon such objection may be reviewed in the District Court at the instance of the party aggrieved, either on appeal or by means of a writ of prohibition.

Approved this 18th day of February, 1905.

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## CHAPTER 12.

### DUTIES OF STATE AUDITOR.

An Act to amend section 2421 of the Revised Statutes of Utah, 1898, and chapter 69 of the laws of Utah, 1899, defining the duties of State Auditor.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2421 of the Revised Statutes of Utah, 1898, as amended by chapter 69 of the laws of Utah, 1899, defining the duties of State Auditor, is hereby amended to read as follows:

Section 2421. **Duties State Auditor.** It is the duty of the State Auditor:

1. To superintend the fiscal concerns of the State.
2. To report to the Governor on the first of January next preceeding each regular session of the Legislature, a statement of the funds of the State, its revenues, of the public expenditures during the two preceding fiscal years, together with a detailed estimate of the expenditures to be defrayed from the treasury for the two ensuing fiscal years, specifying therein each object of expenditures and distinguishing between such as are provided for by permanent or temporary appropriation, and such as must be provided for by a new statute, and suggesting the means from which such expenditures are to be defrayed; and to make a semi-annual report to the Governor of the condition of the state treasury.
3. To accompany his biennial reports with tabular statements, showing the amount of each appropriation for the two preceding fiscal years, the amount expended, and the balance, if any; also showing the amount of revenue chargeable to each county for such years, the amount paid, and the amount unpaid or due therefrom.
4. When requested, to give information in writing to either house of the Legislature relating to the fiscal affairs of the State, or to the duties of his office.



5. To suggest plans for the improvement and management of the public revenues.

6. To keep and state all accounts in which the State is interested.

7. To keep an account of all warrants drawn upon the Treasurer, and a separate account under the head of each specific appropriation, showing at all times the unexpended balance of such appropriation.

8. To keep an account between the State and the State Treasurer, and therein charge the State Treasurer with the balance in the treasury when he came into office, and with all moneys received by him, and credit him with all warrants drawn on and paid by him.

9. To keep a register of warrants showing the fund upon which they are drawn, the number, in whose favor, for what service, the appropriation applicable to the payment thereof, and a receipt from the person to whom the warrant was delivered.

10. To audit all claims against the State in cases where there are sufficient provisions of law for the payment thereof.

11. To require, in his discretion, any person presenting an account for settlement to be sworn before him, and to answer orally or in writing, as to any facts relating to it.

12. To require all persons who have received any moneys belonging to the State and have not accounted therefor, to settle their accounts.

13. To inspect at least once a year the books of any persons charged with the receipt, safe keeping, or disbursement of public moneys.

14. To require, in his discretion, all persons who have received moneys or securities, or have had the disposition or management of any property of the State of which an account is kept in his office, to render statements thereof to him; and all such persons must render such statements at such times and in such form as he may require.

15. To direct and superintend the collection of all moneys due the State, and institute suits in its name for all official delinquencies in relation to the assessment, collection, and payment of the revenue, and against persons who by any means have become possessed of public money or property, and have failed to pay over or deliver the same, and against all debtors of the State; of which suits the courts of the county in which the seat of government may be located have jurisdiction, without regard to the residence of the defendants.

16. To draw warrants on the State Treasurer for the payment of moneys directed by law to be paid out of the treasury; but no warrant must be drawn unless authorized by law. Every warrant must be



# LAWS

OF THE

# STATE OF UTAH.

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PASSED AT THE SIXTH REGULAR SESSION OF  
THE LEGISLATURE, 1905.

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## CHAPTER I.

### CONTINGENT EXPENSES OF LEGISLATURE.

**An Act to provide for the regular and contingent expenses of the sixth session of the Legislature of the State of Utah.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Legislative Contingent Expenses.** That the sum of twenty-five thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of the funds of the state treasury for the purpose of defraying the regular and contingent expenses of the sixth session of the Legislature; and the State Auditor shall draw his warrant on the State Treasurer for such money, or any portion thereof, upon the request, in writing, of the president and secretary of the Senate and speaker and chief clerk of the House of Representatives.

**Sec. 2.** This act shall take effect upon approval.

Approved this 12th day of January, 1905.

**CHAPTER 15.****VACANCIES AND PAY OF JURY COMMISSIONERS.**

**An Act amending section 1305, Revised Statutes of Utah, 1898, relating to vacancies and pay of jury commissioners.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 1305, Revised Statutes of Utah, 1898. be and the same is hereby amended to read as follows:

**1305. Filling vacancy in office of Jury Commissioner. Compensation.** Should a vacancy occur in the office of jury commissioner at any time, or should any such commissioner fail to act when required, the district judge shall appoint a person, either in open court or by letter or telegram, to fill such vacancy or to act for the time being, as the case may require, who shall take the oath required by this chapter. For the time actually and necessarily employed in the performance of his duties, each jury commissioner shall be allowed by the Board of County Commissioners of the county in which such service is rendered three dollars per day, and upon such allowance the County Auditor shall draw his warrant therefor and the same shall be paid out of the county treasury.

**Sec. 2.** This act shall take effect upon approval.

Approved this 23rd day of February, 1905.

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**CHAPTER 16.****UNLAWFUL TO THREATEN VIOLENCE TO EMPLOYEES OR TO DESTROY PROPERTY.**

**An Act making it unlawful to threaten violence to employees or to destroy property and providing punishment therefor.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Intimidating employee a misdemeanor.** Any person or persons in this State who shall threaten to destroy property or to do bodily harm, for the purpose of preventing any person or persons from entering or remaining in the employ of any company, corporation or individual, shall be guilty of a misdemeanor.

Approved this 24th day of February, 1905.

## CHAPTER 17.

## REVOCATION OF WILLS.

An Act to amend section 2754, Revised Statutes of Utah, 1898, relating to revocation of wills by the subsequent marriage of the testator; by subsequent marriage and birth of issue—Evidence of revocation—Presumption.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2754, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

2754. Sub-division 1. Effect of after marriage with issue. I after having made a will, the testator marries, and has issue of such marriage, born either in his life time or after his death, and the wife or issue survive him, the will is revoked, unless provision is made for such issue by some settlement, or unless such issue are provided for in the will, or in such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of such revocation can be received.

Sub-division 2. Effect of aftermarriage. If, after making a will, the testator marries, and the wife survives the testator, the will is revoked, unless provision has been made for her either by marriage contract, or by some written settlement showing on its face the testator's intention to substitute such contract or settlement for a provision in her favor in his will, or unless she is provided for in the will, or in any such way mentioned therein as to show an intention not to make such provision; and no other evidence to rebut the presumption of revocation must be received.

Approved this 24th day of February, 1905.

## CHAPTER 18.

## PROCEEDINGS SUPPLEMENTAL TO EXECUTION.

An Act to amend section 3272, Revised Statutes of Utah, 1898, relating to proceedings supplemental to execution.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 3272, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

3272. Execution unsatisfied debtor cited to answer. When an execution against property of the judgment debtor or of any one of sev-

eral debtors in the same judgment issued to a proper officer is returned unsatisfied in whole or in part, the judgment creditor at any time after such return is made, is entitled to an order from the judge of the court in which such judgment was given, or from the judge of the district court of any county in which a transcript of said judgment has been filed and docketed in the office of the clerk of the district court of said county, requiring such judgment debtor, or if a corporation, any officer thereof, to appear and answer upon oath concerning his or its property before such judge, or a referee appointed by him, at a time and place specified in the order; but no judgment debtor must be required to attend before a judge or referee out of the county in which he resides.

Approved this 24th day of February, 1905.

## CHAPTER 19.

### BURGLARY—DEFINITION—PENALTIES.

An Act to amend sections 4334, 4335, 4336, 4337, and 4338, Revised Statutes of Utah, 1898, relating to burglary in the first and second degrees, defining the same, and the penalties therefor.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 4334, 4335, 4336, 4337, and 4338, Revised Statutes of Utah, 1898, be and the same are hereby amended to read as follows:

*Amended*  
*Sub 1907*  
*chap 5*  
4334. **Burglary in first degree.** Every person who, in the night-time, forcibly breaks and enters, or without force enters an open door, window or other aperture, of any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, or any tent, vessel, water craft or railroad car, with intent to commit larceny or any other felony is guilty of burglary in the first degree.

*do*  
4335. **Penalty.** Burglary in the first degree is punishable by imprisonment in the state prison for a term not less than one nor more than twenty years.

*do*  
4336. **Burglary in second degree.** Every person who, in the day-time, enters any dwelling house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, or any tent, vessel, water craft or railroad car, with intent to steal or to commit any felony whatever therein, is guilty of burglary in the

second degree. Where in a prosecution for burglary in the first degree, the question as to whether the crime has been committed in the night time or in the day time cannot be definitely arrived at by the jury, a verdict of guilty of burglary in the second degree may be found; *provided*, the other elements of the crime of burglary in the second degree have been proved.

4337. **Penalty.** Burglary in the second degree is punishable by imprisonment in the state prison for a term not less than six months nor more than three years. *da*

4338. **"Night time" defined** The phrase "night-time" as used in this chapter, means the period of time between sun-set and sunrise. *da*

Approved this 24th day of February, 1905.

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## CHAPTER 20.

### DOCKETING OF JUDGMENTS.

An Act to amend section 3199, Revised Statutes of Utah, 1898, relating to the docketing of judgments.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 3199, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

3199. **Docket defined.** The docket mentioned in the last section is a book which the clerk keeps in his office with each page divided into columns and heads as follows: judgment debtors; judgment creditors; judgment; time of entry; where entered in judgment book; appeals—when taken; judgment of appellate court; satisfaction of judgment; when entered. If judgment be for the recovery of money or damages, the amount must be stated in the docket under the head of judgment; if the judgment be for any other relief, a memorandum of the general character of the relief granted must be stated. The names of the judgment debtors must be entered in the docket, or in an index kept in connection therewith, in alphabetical order.

Approved this 24th day of February, 1905.

**CHAPTER 21.****CEDING TO THE UNITED STATES JURISDICTION OVER MILITARY RESERVATIONS.**

**An Act ceding to the United States jurisdiction over the military reservations of Fort Douglas and Fort Duchesne within this State.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** Jurisdiction ceded over Fort Douglas and Fort Duchesne. That jurisdiction be, and the same is hereby, ceded to the United States in and over all lands comprised within the limits of the military reservations of Fort Douglas and Fort Duchesne, in the State of Utah, to continue so long as the United States shall hold and own the same for military purposes and no longer, saving, however, to the said State the right to serve all civil processes and such criminal processes as may lawfully issue under the authority of this State against persons charged with crimes against the laws of the State committed without or within said reservations.

**Sec. 2.** This act shall take effect upon approval.

Approved this 24th day of February.

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**CHAPTER 22.****CONTENTS OF ARTICLES OF INCORPORATION.**

**An Act to amend section 315, Revised Statutes of Utah, 1898, as amended by chapter 81, laws of Utah, 1901, relative to the contents of the articles of agreement of incorporations.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 315, Revised Statutes of Utah, 1898, as amended by chapter 81, laws of Utah, 1901, be, and the same is hereby amended to read as follows:

**315. Articles of agreement. Contents.** The incorporators shall enter into an agreement in writing, signed by each of them and sworn to by at least three of their number, as hereinafter provided before the county clerk or any notary public of the county in which they have established, or intend to establish, their principal place of business, stating:

1. The name of the corporation.
2. The precinct or city where it is organized.
3. The names of the incorporators and their places of residence.



4. The time of its duration, which shall not in any case be less than three nor more than one hundred years.

5. The pursuit or business agreed upon, specifying it in general terms.

6. The place of its general business.

7. The amount of stock each party has subscribed.

8. The amount of each share, and the limit of capital stock agreed upon.

9. The number and kind of officers, their qualifications and term of office, and the time and manner of their election, removal and resignation, with the names of the officers to serve until the first general election; *provided*, that in no case shall the number of directors be less than three nor more than twenty-five; *provided further*, that any corporation organized or existing, or hereafter organized and existing under the laws of this State, may, instead of electing its entire board of directors annually, provide in its articles of association, or by amendment to its articles of association, for the election, as near as may be, of one-third of the number of its directors for a term of one year, one-third thereof for a term of two years, and one-third thereof for a term of three years, and thereafter at each succeeding annual meeting of the stockholders, one third thereof for a term of three years.

10. How many of the entire board of directors shall be necessary to form a quorum and be authorized to transact the business and exercise the corporate powers of the corporation; *provided*, that a quorum shall not be less than one-fourth of the entire number.

11. Whether or not the private property of the stockholders shall be liable for its obligations.

12. Such additional clauses as the incorporators deem necessary for conducting the business of the corporation and for its future safety and welfare.

Approved this 24th day of February, 1905.

**CHAPTER 23.****TRESPASS.**

**An Act to amend section 72 of the Revised Statutes of Utah, 1898, relating to trespass.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 72 of the Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**Section 72. Throwing down fence. Opening gate.** Any person who shall wilfully throw down a fence or open bars or gates into any enclosure other than his own or into any field owned by joint occupancy and leave the same open, shall be deemed guilty of a misdemeanor and he shall also be liable for all damages thereby sustained.

Approved this 25th day of February, 1905.

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**CHAPTER 24.****PLEADING STATUTE OF LIMITATIONS.**

**An Act to amend section 2992, Revised Statutes of Utah, 1898, relating to the statute of limitations and the manner of pleading cases.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 2992, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**2992. Pleading Statute of Limitations.** In pleading the statute of limitations, it is not necessary to state the facts showing the defense, but it may be stated generally that the cause of action is barred by the provisions of section (giving the number of the section in the Revised Statutes of Utah, 1898, and if the said section has been amended, the section and chapter of the Laws of Utah, amending the same which is relied upon, and of the subdivision thereof if it is so divided); and if such allegation be controverted the party pleading must establish, on the trial, the facts showing that the cause of action is so barred.

Approved this 27th day of February, 1905.

## CHAPTER 25.

## UNDERTAKINGS ON APPEAL FROM JUSTICE'S COURTS.

An Act to amend section 3747, of the Revised Statutes of Utah, 1898, relating to undertakings on appeal from justice's court.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 3747, of the Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

Section 3747. **Undertaking on appeal.** An appeal from a Justice's court shall not be effectual for any purpose unless an undertaking be filed within five days after filing the notice of appeal, with two or more sureties, in the sum of one hundred dollars, for the payments of the costs on the appeal; and, if a stay of proceedings be claimed, in a sum equal to twice the amount of the judgment, including costs, when the judgment is for the payment of money, or twice the value of the property, including costs, when the judgment is for the recovery of specific personal property; and shall be to the effect, when the action is for the recovery of money, that the appellant will pay the amount of the judgment appealed from and all costs if the appeal be withdrawn or dismissed, or the amount of any judgment and all costs that may be recovered against him in said action in the district court; and that if the appellant does not make such payment within thirty days after the entry of judgment in the district court or of the date of the withdrawal or dismissal of the appeal, judgment may be entered on motion of the respondent in his favor against the sureties for such amount with interest and costs; and judgment may be entered against the sureties by the court having jurisdiction of the case pursuant to the stipulations herein designated. When the action is for the recovery of or to foreclose a lien on specific personal property, the undertaking shall be to the effect that the appellant will pay the judgment and costs appealed from and obey the order of the court made therein, if the appeal be withdrawn or dismissed, or will pay the amount of any judgment and costs which may be recovered against him in said action in the district court, and will obey any order of the court therein. When the judgment appealed from directs the delivery of the possession of real property, the undertaking shall be to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon, and that if the appeal be dismissed or withdrawn, or the judgment affirmed, or judgment be recovered against him in the action in the district court, he will pay the value of the use and occupation of the prop-

*Appeal*  
*Ch 160*  
*1907*

erty from the time of the appeal until the delivery of possession thereof; or that he will pay any judgment and costs that may be recovered against him in said action in the district court, not exceeding a sum to be fixed by the justice of the court from which the appeal is taken, and which sum must be specified in the undertaking. *Provided*, that the giving of an undertaking on appeal may be waived in writing by the adverse party.

Approved this 27th day of February, 1905.

## CHAPTER 26.

### SHEEP COMMISSIONERS.

**An Act to establish a State Board of Sheep Commissioners, Provide for the control and suppression of scab and other infectious diseases in sheep, and to provide revenue to enforce the same, and repealing chapter 42, laws of Utah 1903, entitled, "An Act to establish a State Board of Sheep Commissioners, create the office of State Sheep Inspector, provide for the control and suppression of scab and other infectious diseases in sheep, and to provide revenues to enforce the same."**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** ~~Board created.~~ That a State Board of Sheep Commissioners be, and the same is hereby created.

**Sec. 2. Qualifications. Term. Compensation.** The State Board of Sheep Commissioners, hereinafter called the Board, shall consist of three(3) members, all of whom shall be experienced wool growers, no two of whom shall be from the same county, said members to be appointed by the Governor, by and with the consent of the Senate, and to hold their office for four years and until their successors are duly appointed and qualified. Each of said commissioners before entering upon the duties of his office shall take and subscribe to the constitutional oath of office, and enter into a bond, with at least two sureties, in the penal sum of \$2500. payable to the State of Utah, and conditioned for the faithful performance of the duties of his office, which bond shall be approved by the Governor and filed in the office of the Secretary of State. The members of the Board shall each receive for their services five hundred dollars per annum and actual transportation expenses while in discharge of their duties. Said salary and expense shall be paid from the State treasury. Each member of said Board shall be a qualified elector of the county from which he is chosen, and a flock master within the State, and must reside during his term of office within the State. Said Board must hold their

meetings quarterly and oftener, if so requested by any member of the Board.

**Sec. 3. President. Secretary. Powers and duties of Board.** The Board shall elect one of its members president, and is empowered to make rules and regulations for governing itself and for the enforcement of the provisions of this act, and shall adopt on behalf of the State the rules and regulations of the United States Bureau of Animal Industry, relating to the control and suppression of disease in sheep, and to co-operate with the officers of said Bureau in the enforcement of such rules and regulations. The Board shall appoint a secretary, prescribe his duties and fix his salary, which shall not exceed seven hundred and fifty dollars per annum. The Board shall maintain an office. The maintenance of such office and the secretary's salary shall be paid from the State treasury in the same manner as the salaries and expenses of State officers. The Board shall fix the rate of tax to be levied, as provided for in Section 4 of this Act, and shall send notice of the same to the County Commissioners of the several counties of the State on or before the first day of August of each year. The Board shall audit all bills of salaries and expense incurred in the enforcement of this act that may be payable from the sheep inspection fund, and, if found correct, shall certify the same to the State Auditor, who shall draw a warrant on the State Treasurer in favor of the party or parties entitled thereto. The Board shall make an annual report in writing to the Governor on or before the thirtieth day of November in each year, giving a statement of the transactions of the Board, and facts relating to the condition of the sheep industry of this State. The Board shall have power to order an inspection or quarantine of any sheep in the State, compel dipping at such times and as often as it deems necessary to insure the suppression of scab, and divide the State into such districts as may be necessary for the enforcement of this act. The Board shall have power to quarantine and compel the cleaning and disinfecting of any shearing, dipping or other corrals where sheep are handled, and when owners or persons in charge of such corrals fail or refuse to clean and disinfect such corrals, the Board shall have power to order the inspector to take charge of such corral and clean and disinfect it; the expense of which shall be paid by the owner or person in charge, and shall be a lien on such corral until the expense is paid. All orders, rules or regulations made by the Board must be published at least twice in some newspaper having general circulation in the State, which shall constitute a legal notice upon all sheepmen of the order made.

*12 Repealed*

**Sec. 4. Tax on sheep.** The Board of County Commissioners, at

the time of the annual levy of taxes, must, at the request of the Board, levy the rate of tax recommended by the Board, not to exceed four (4) mills on the dollar on all sheep assessed in their respective counties, according to the assessed valuation of the same, said tax to be collected as other taxes and paid to the State Treasurer, who must keep the same in a separate fund to be known as the sheep inspection fund.

**Sec. 5. Report on Tax.** The County Auditor must, on or before the first Monday in September of each year, prepare from the assessment book of such year, as corrected by the Board of County Commissioners and the State Board of Equalization, a statement showing the total number of all sheep assessed, and the valuation of same. And the County Treasurer must notify the State Board of Sheep Commissioners of all moneys forwarded to the State treasury belonging to the State sheep inspection fund at the time said moneys are forwarded to the State treasury. Also make final report to said Board at the time he makes settlement with the State Auditor.

**Sec. 6. Inspectors. Compensation. Powers and duties.** The Board shall have charge of the enforcement of the provisions of this act and of all rules and regulations made and adopted by it. The Board shall appoint such inspectors as may be necessary, and said inspectors, before entering upon the duties of their office, shall file a bond in the sum of one thousand dollars payable to the State for the faithful performance of their duties, with and to be approved by the Board. Such inspectors shall receive five dollars (\$5) per diem and actual transportation expenses incurred in the performance of their duty, to be paid from the sheep inspection fund. The Board and each inspector must keep a book, to be known as the inspection record, in which they must enter their official acts. Such record must show the name of the owner of every flock of sheep inspected, the time when and place where the same was inspected. Inspectors shall have the right at all times to enter any premises, farms, fields, pens, slaughter houses, buildings or cars where any sheep are quartered, for the purpose of examining them, in order to determine whether they are affected with any infectious or contagious disease. The Board shall have the power to order an inspector to quarantine any corral, pens, slaughter houses, buildings and cars where sheep may have been handled, and compel the cleaning and disinfecting of the same when deemed necessary for the purposes of this act. Where owners or persons in charge of such places refuse to clean and disinfect them, the inspector shall have the right to take charge of such places, and cause the same to be cleaned and disinfected, the expense of which must be paid by the owner or person in charge, and shall be a lien upon such premises, corrals, pens, slaughter houses, buildings, cars, etc., until such expense is paid.

**Sec. 7. Inspectors to report.** Inspectors shall report to the Board in writing as often and at such times as may be requested by said Board.

**Sec. 8. Inspectors, further duties of.** Each inspector must inspect all the sheep within the district assigned to him, when so ordered by the Board, and must make and issue certificate or bill of health for all sheep whose owners have complied with the law and the orders, rules and regulations made and adopted by the Board, describing the sheep with the marks and brands thereon, which shall entitle the owner or agent in charge to pass with such sheep from one district to another in the State. The inspector shall immediately file with the Board a duplicate of all certificates issued by him.

**Sec. 9. Infectious diseases to be reported.** Whenever any sheep shall become infected with scab or other infectious or contagious disease, the owner or agent in charge must immediately notify the Board or inspector.

**Sec. 10. Quarantine of diseased sheep.** When sheep are found diseased, regulations for their quarantine must be made at once by the inspector of the district where such sheep are found, who must define the place and limits within which such sheep may be grazed, herded or driven, and such sheep must be held in quarantine until pronounced cured from disease by the Board or inspector. The expense of dipping, hand-dressing, spotting, feeding and taking care of all sheep quarantined under the provisions of this Act must be paid for by the owner or agent in charge of such sheep; and such expense shall be a lien upon such sheep until paid.

**Sec. 11. Sheep must be dipped.** All sheep in the State must be dipped at such time or times as may be ordered by the Board. Such dipping shall be done under the supervision of an inspector. The dip used in all cases must be a lime and sulphur dip, or a sulphur and tobacco dip, the formula of each to be as follows:

1. A lime and sulphur dip made with 8 pounds of fresh lime and 25 pounds of flowers of sulphur, or 32 pounds of native sulphur, to 100 gallons of water, the lime and sulphur to be boiled together for not less than two hours.

2. A tobacco and sulphur dip made from "Scab Cure," "Black Leaf" or "Laidlow and McKill's Tobacco Extract," to be used in such quantities as prescribed by directions for using such dips, with 16 pounds of flowers of sulphur, or 24 pounds of native sulphur, to 100 gallons of water. Clean pure water must be used in all cases, and the dip kept at a temperature of from 100 to 115 Fahrenheit, the sheep to be kept in the vat at least two minutes. *Provided*, that if the formulas required by the Bureau of Animal Industry of the United

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Repealed

States for dipping sheep shall be changed the Board must adopt the same in lieu of the foregoing formulas.

**Sec. 12. Sheep brought into the State must be reported.** When any owner or person in charge of sheep shall bring such sheep into this State upon entering from an adjoining State or Territory for the purpose of grazing, they shall notify the Board or any inspector in writing of such fact immediately after entering the State, stating the time when and place where such sheep did enter: provided, however, that sheep in transit on the cars shall not be required to give such notice unless they shall remain in the State, or are unloaded to feed and rest for a longer period than forty-eight hours.

**Sec. 13. Scabby sheep must not be removed.** In no case shall any scabby sheep be removed from one point to another within any district, or from one district to another, without a written permit from the Board or an inspector.

**Sec. 14. Penalty.** Any person or persons owning, or having charge of any dipping vat or vessel in which sheep are dipped, and every owner of sheep, or agent in charge of them who shall refuse or neglect to dip all sheep in the manner prescribed in the preceding sections who shall fail to observe any and all rules and regulations made and adopted by the Board in accordance with the provisions of this act, shall be liable to the fines and penalties imposed hereinafter in this act.

**Sec. 15. Report of inspector. Compensation.** Whenever any Inspector files in the office of the State Auditor proper vouchers, duly approved by the Board setting forth:

1. The name of such inspector.
2. The kind and nature of service rendered.
3. The particular locality where the work was done.
4. The length of time employed.
5. The number of sheep inspected and the name of the owner or person in charge of such sheep.
6. The disease or diseases treated, and the number treated for each disease, and the length of time of such treatment.
7. The amount claimed for such services;

Then and in such case, the State Auditor must draw a warrant in favor of such inspector, payable out of the moneys in the sheep inspection fund.

**Sec. 16. Penalty.** Any person who violates any provision of this act, or who disregards any order or direction made by the Board or inspector in accordance therewith, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding three



hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment.

**Sec. 17. Repeal.** Chapter 42, Laws of Utah 1903, entitled "An Act to Establish a State Board of Sheep Commissioners, creating the office of State Sheep Inspector, providing for the control and suppression of scab and other infectious diseases in sheep, and to provide revenue to enforce the same," is hereby repealed.

**Sec. 18.** This act shall take effect upon approval.

Approved this 1st day of March, 1905.

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## CHAPTER 27.

### ASSESSMENTS OF CAPITAL STOCK OF CORPORATIONS.

**An Act amending sections 359 and 360 of the Revised Statutes of Utah, 1898, providing for notice of levy, service and publication of assessments of corporations and making certain exceptions.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That sections 359 and 360 of the Revised Statutes of Utah, 1898, be, and the same are hereby amended to read as follows:

**359. Notice of assessment.** Upon making the order, the Secretary shall cause to be issued a notice thereof in the following form: (Name of corporation in full. Location of principal place of business.) Notice is hereby given that at a meeting of the directors, held on the (date) an assessment of (amount) per share was levied on the capital stock of the corporation, payable (when, to whom, and where). Any stock upon which this assessment may remain unpaid on the (day fixed) will be delinquent and advertised for sale at public auction, and unless payment is made before, will be sold on the (day appointed), to pay the delinquent assessment, together with the cost of advertising and expense of sale.

(Signature of secretary, with location of office.)

**360. How served.** The notice must be served personally on each stockholder, or, in lieu of personal service, must be sent through the mail, addressed to each stockholder at his place of residence, if known, and if not known, at the place where the principal office of the corporation is situated, and be published once a week for four successive weeks, in some newspaper of general circulation, in the place designated in the articles of incorporation as the principal place of

business. *Provided*, that corporations formed for irrigation purposes, may omit publication of the notice of sale as above provided, but in other respects must comply with the provisions of this act.

Approved this 1st day of March, 1907.

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## CHAPTER 28.

### THE FISCAL YEAR OF THE STATE OF UTAH.

*An Act fixing the fiscal year of the State of Utah and providing when reports shall be prepared, compiled and filed.*

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Fiscal year.** The fiscal year of the State of Utah shall commence on the 1st day of December of each year.

**Sec. 2. Accounts closed end of fiscal year.** All officers who are required by law to report annually or biennially to the Legislature or Governor shall close their accounts on said date, and as soon thereafter as practicable shall prepare and compile their respective reports.

**Sec. 3. Biennial reports transmitted to Secretary of State.** All reports intended for the use of the Legislature shall be transmitted by the respective officers to the Secretary of State on or before the fifteenth day of December before the assembling of the Legislature; and the Secretary of State shall cause the same to be printed, in accordance with the laws regulating the public printing, before the assembling of the Legislature.

**Sec. 4. Printed reports transmitted to Legislature.** Upon the organization of the Legislature, the Secretary of State shall transmit to the Senate and House of Representatives copies of each printed report for the use of the members of the Legislature.

Approved this 3rd day of March, 1907.

# CHAPTER 29.

## CREATION OF PREFERRED AND SPECIAL STOCK AND INCOME CERTIFICATES.

An Act to amend section 443, Revised Statutes of Utah, 1898, relating to the creation of preferred and special stock and income certificates.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 443, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

443. Preferred stock and income certificates. Any railroad corporation organized or existing under the laws of this State, or that may be hereafter organized under the laws of this State, shall have power to create, issue, and dispose of preferred stock, special stock, and income certificates, to such amounts and in such form, and for such purposes, as may be determined upon by the board of directors of such corporation, with the assent thereto of the holders of at least a majority in amount of the common capital stock; *Provided*, that no increase of any preferred or special stock, or of any income certificates issued pursuant to this chapter shall at any time be made without the assent thereto of the holders of at least a majority in amount of the preferred stock, special stock, or of the income certificates to be affected by such issue, as the case may be. The holders of such preferred or special stock shall have the same right to vote at stockholders' meetings as the holders of the common stock of said company, and shall be equally qualified to be officers thereof.

Sec. 2. This act shall take effect upon approval.

Approved this 3rd day of March, 1905.

*Repealed  
Amended  
Ch 93  
07*

# CHAPTER 30.

## AMENDMENTS TO ARTICLES OF INCORPORATION.

An Act to amend section 338, Revised Statutes of Utah, 1898, as amended by chapter 94, laws of Utah, 1903, relating to the manner of making amendments to articles of incorporation.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 338, Revised Statutes of Utah, 1898, as amended by chapter 94, laws of Utah, 1903, be, and the same is hereby amended to read as follows:

338. Amendments. Now made. The articles of incorporation of

*See  
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Ch 247*

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## CHAPTER 32.

### CONCURRENT JURISDICTION OF CITY COURTS.

**An Act to amend section 13 of chapter 109, laws of Utah, 1901, relating to concurrent jurisdiction of city courts in cities of the first class with district courts.**

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 13, of chapter 109, laws of Utah, 1901, be, and the same is hereby amended to read as follows:

13. **City court has concurrent jurisdiction.** The city court shall have concurrent jurisdiction with the district courts within their respective counties, viz:

1. In actions of forcible entry, forcible detainer, or unlawful detainer, where the whole amount of the rent and damages claimed is less than five hundred dollars.

2. In actions to enforce and foreclose liens on personal property, where the amount of the liens and the value of the property are each less than five hundred dollars.

3. In actions for an accounting where the final amount involved does not exceed five hundred dollars and in which the title to real property is not involved.

4. In any action in equity relating wholly to personal property where the sum involved and the value of the property are each less than five hundred dollars.

Approved this 3rd day of March, 1905.

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## CHAPTER 33.

### ENFORCEMENT OF JUDGMENTS.

**An Act for the enforcement of judgments in counties other than the one in which the same was entered.**

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. Transcript of judgment docketed in any county. That a transcript of judgment rendered in a district court of the State of Utah in any county thereof, may be filed and docketed in the office of the clerk of the district court of any other county in this State, and when

so filed and docketed said judgment shall have the same force and effect as a judgment given in the district court in said county.

Approved this 3rd day of March, 1905.

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## CHAPTER 34.

### STATE BOARD OF PARK COMMISSIONERS.

**An Act creating a State Board of Park Commissioners, providing the manner of their appointment, fixing their compensation, prescribing their powers and duties, making an annual appropriation and fixing penalties for a violation of this act.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Board of Park Commissioners created.** That there is hereby created a State Board of Park Commissioners, to consist of the Governor and two members to be appointed by the Governor, by and with the consent of the Senate. A majority of the Board shall constitute a quorum and be authorized to transact the business of the Board. The Governor shall be president, and the Board shall elect one of its members secretary of the Board.

**Sec. 2. Term. Compensation.** Each of the members shall hold his office for the term of four years and until his successor shall be appointed and qualified. He shall qualify by taking the constitutional oath of office, and shall receive as compensation the sum of four dollars per day for each day actually devoted to the duties of his office. All claims for compensation shall, before being paid, be approved by the State Board of Examiners.

**Sec. 3. Powers.** Said Board shall have full and exclusive power to manage and control any and all lands that the State may acquire for State Parks, and to make such rules and regulations as may be necessary to manage and control the same and to employ such guards and patrolmen as may be necessary to carry out the purposes of this Act.

**Sec. 4. Appropriation.** The sum of \$2000.00 or as much as may be necessary, is hereby appropriated annually for the purpose of carrying out the provisions of this Act.

**Sec. 5. Penalty for damaging park.** Any person, or persons corporation cutting or injuring any timber on any of said lands or removing it therefrom or allowing horses, cattle or sheep to run at large or to herd or graze on any of said park lands or who shall violate any rule or regulation governing said park without the written consent of

the Board of Park Commissioners shall be deemed guilty of a misdemeanor.

*Provided* that nothing in this act shall be construed to hinder campers from using dead timber for camping purposes and from pasturing their work and saddle horses on said lands while actually camping thereon; *Provided further*, that all timber taken from said parks and all privileges granted to any person, partnership or corporation for grazing or other profitable pursuits shall be paid for in such sum or sums as the Board may require; *provided*, also, that all moneys so received from the granting of such privileges shall be paid into the State treasury.

**Sec. 6. Act takes effect, when.** This Act shall be in force and of effect provided only that Congress shall grant to the State of Utah, to be used perpetually as a State Park, that part of the Uintah Indian Reservation known as Strawberry Valley, and more particularly described as follows, to-wit:

Townships 2 and 3 South and Ranges 10 and 11 West, and Fractional Townships 4 South and Ranges 10 and 11 West of the Uintah Special Meridian.

Approved this 4th day of March, 1905.

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## CHAPTER 35.

### APPROVAL AND CUSTODY OF OFFICIAL BONDS.

**An Act to provide for the approval and custody of official bonds of State officers, officials of State institutions, or other persons required to give bond to the State.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Approval and custody of bonds of State officers.** When ever State officers, officials of State institutions or other persons are required to give official bonds to the State, such bonds shall be approved by the State Board of Examiners and recorded by the Secretary of State in a book to be kept for that purpose, and when so recorded the Secretary of State shall deliver the originals to the State Treasurer, excepting the bond of the State Treasurer, and the said Treasurer shall become the legal custodian of said bonds. The Bond of said Treasurer shall remain in the custody of the Secretary of State, who shall become the legal custodian of said bond.

Approved this 4th day of March, 1905.

**CHAPTER 36.****STATE BOARD OF LAND COMMISSIONERS.**

*An Act to amend sections 4, 9, and 32 of chapter 64, of the laws of Utah, 1893, and section 1 of said chapter 64, as the same is amended by chapter 35 of the laws of Utah, 1901, and section 34 of said chapter 64, as amended by chapter 62, laws of Utah, 1903, relating to the State Board of Land Commissioners.*

*Enacted by the Legislature of the State of Utah:*

**SECTION 1.** That sections 4, 9 and 32 of chapter 64, of the laws of Utah, 1893, be and the same are hereby amended to read as follows:

**4. Board to elect president and secretary.** The board shall elect one of its members president and another of its members as secretary thereof. The secretary shall take the constitutional oath, and give a bond to the State in the sum of \$50,000, same to be approved by the State Board of Examiners and filed with the Secretary of State.

The bond of the secretary shall be conditional for the faithful performance of his duties, and the safe-keeping of all funds and securities entrusted to his care. He shall be the custodian of all notes, mortgages, and other evidences of indebtedness arising from investment of State funds made by the Board, and shall collect all interest due the State, or all such interest so collected shall be paid into the State treasury to the credit of the fund to which it belongs, on the last business day of each month.

**9. Board to cause lands to be appraised.** The Board shall cause the State lands and the improvements thereon to be appraised or re-appraised at such times as it may deem for the best interest of the State. The Board may appoint one or more suitable persons to select, locate, and appraise all lands granted to the State.

**32. Secretary's fees.** For making certified copies of papers, or records, by the secretary, the same fees as are charged by the Secretary of State for like services shall be collected.

**Sec. 2.** Also that section 1 of said chapter 64, as the same is amended by chapter 35 of the laws of Utah, 1901, be, and the same is hereby amended to read as follows:

**1. Board of Land Commissioners created.** A State Board of Land Commissioners is hereby created, which shall consist of five resident citizens of the State, who shall be appointed by the Governor, by and with the consent of the Senate. Each commissioner shall hold his office for two years and until his successor is appointed and qualified.



Sec. 3. Also that section 34 of said chapter 64 as the same is amended by chapter 62 of the laws of Utah, 1903, be and the same is hereby amended to read as follows:

34. **Investment of funds.** The Board shall make the necessary orders for the investment or disposal of the funds derived from the sale and rental of public lands of the State, in the State treasury. Such funds shall be invested for and on account of the specific purpose for which the lands were granted, in government, state, county, city, or school district bonds or notes of the State made under the provisions of chapter 8 of the laws of Utah, 1899, or in first mortgages on improved farms, within the State, or otherwise as provided by law; but no loan, secured by mortgage on such improved farms shall exceed two-thirds of the assessed value of the same, exclusive of the improvements, and said farm loan shall be preferred. *amended ch 1150.*

Whenever the Board shall order the investment of any part of the State school fund, or any permanent fund held for investment, said Board shall notify the State Auditor of such order, and the State Auditor shall draw a warrant for the amount stated in the notice, in favor of the president and secretary of the Board, and the State Treasurer shall pay such warrant out of the funds designated.

The annual interest on all loans herein provided for, shall be six per cent; *provided*, that the expense of investigation of titles and values shall be paid by the intending borrower.

Sec. 2. This act shall take effect upon approval.

Approved this 7th day of March, 1905.

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## CHAPTER 37.

### GARNISHMENTS.

An Act to amend sections 3095 and 3098, of the Revised Statutes of Utah, 1898, concerning garnishment, and to provide for the payment of fees to the garnishee before answer can be required in garnishment proceedings. Provided that the payment of costs by the defendant shall not apply in cases provided for in subdivision seven of section 3245 as amended by chapter 31 of the laws of Utah, 1901.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That sections 3095 and 3098 of the Revised Statutes of Utah, 1898, be, and the same are hereby amended to read as follows:

3095. **Garnishee to answer under oath. Fee. Substance of interrogations.** The garnishee shall answer the interrogatories in writing upon oath or affirmation; but in no case shall the garnishee be required

to answer any interrogatories unless and until he is paid or tendered by the plaintiff in the action or the officer serving the writ, a fee of two dollars, and unless such sum is paid or tendered to him or to the person making the answer in his behalf, no answer can be required of such garnishee or any person acting for him. In case such fee is paid or tendered, it is hereby made the duty of the officer serving the writ of garnishment to administer such oath or affirmation and to take and return such answer with the writ, or the garnishee after receiving the fees aforesaid may answer in like manner before anyone authorized to administer oaths and affirmations, and in the latter case it shall be the duty of the garnishee to file his answer, or to cause the same to be filed, in the proper court within the proper time required by the writ, or he shall be deemed in default.

The interrogatories may be in substance as follows:

First.—Are you in any manner indebted to the defendants, or either of them, either in property or money, and is the same now due? If not due, when is the same to become due? State full particulars.

Answer.—

Second.—Have you in your possession, in your charge, or under your control, any property, effects, goods, chattels, rights, credits, or choses in action of said defendants, or either of them, or in which he is interested? If so, state what is the value of the same, and state fully all particulars.

Answer.—

Third.—Do you know of any debts owing to the said defendant, whether due or not due, or any property, effects, goods, chattels, rights, credits, or choses in action belonging to him, or in which he is interested, and now in the possession or under the control of others? If so, state the particulars.

Answer.—

.....  
Signature of garnishee.

I, (insert the name of the garnishee), do solemnly swear or (affirm) that the answers to the foregoing interrogatories by me subscribed are true, so help me God.

.....  
Signature of garnishee.

Subscribed and sworn to before me, this.....day of.....19...

The plaintiff may, in his discretion, add other pertinent interrogatories.

Sec 2. That section 3098 of the Revised Statutes of Utah, of 1898, be, and the same hereby is amended to read as follows:

3098. **Judgment against garnishee on failure to answer.** If the garnishee, having been duly served with the writ of garnishment and interrogatories, and has been paid or tendered the fee of two dollars and the fact of such payment or tender is duly certified by the officer who served the writ over his official signature, or such fact is made to appear by the person serving the writ under oath, by affidavit, and after such payment or tender, when duly certified or proved as above provided, the garnishee fails or refuses to answer the interrogatories within the time required, the plaintiff may enter a default against him and proceed before the court to prove the liability of the garnishee according to the provisions of this chapter, (and in such case the garnishee, after the payment of the fee of two dollars to him and not before, may be compelled to give testimony orally as a witness as in other cases), and upon a verdict or finding in that behalf the plaintiff may have judgment entered the same as if the garnishee had answered according to such verdict or finding; and if the verdict or finding charge the garnishee with any liability, the plaintiff may recover costs of the proceedings against the garnishee, but if the garnishee answers he shall be discharged without cost: *Provided*, that the two dollars herein required to be paid to the garnishee shall be paid by the plaintiff in the action and shall be taxed against the defendant in the original action, in cases where the garnishee is found to have credits due the defendant in excess of legal exemptions; and provided that in cases where the garnishee is found to have no credits due the defendant, the said two dollars shall not be taxed against the defendant. *Provided* that the payment of costs by the defendant shall not apply in cases provided for in subdivision seven of section 3245 as amended by chapter 31 of the laws of Utah, 1901, and *provided further*, that in the event the garnishee shall be required to appear personally in court to testify he shall in addition to the fee of two dollars receive the usual witness fee and mileage which shall be paid to him in advance if so demanded, otherwise shall be taxed as costs in the action.

Approved this 7th day of March, 1905.

**CHAPTER 38.****PUNISHMENT FOR ALTERING MARKS OR BRANDS.**

**An Act amending section 4474, Revised Statutes of Utah, 1898, providing for the punishment of persons guilty of altering marks or brands on animals.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 4474, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**4474. Branding or altering mark or brand on animal.** Every person who marks or brands, or who alters or defaces the mark or brand on any horse, mare, gelding, colt, jack, jennett, mule, bull, ox, steer, cow, calf, sheep, goat, hog, shoat, or pig belonging to another, with intent thereby to steal the same, or to prevent identification thereof by the true owner, shall be punished as in cases of grand larceny.

Approved this 7th day of March, 1905.

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**CHAPTER 39.****SALTING CATTLE ON RANGES.**

**An Act providing for salting cattle, horses and sheep on the public ranges of this State.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION. 1. Animals on range to be salted.** Any person, company or corporation who shall turn loose or graze upon any public range of this State, any cattle, horses or sheep shall at that time or within thirty days thereafter, provide or place at or near one or more watering places on said range, and where the cattle, horses or sheep can have easy access thereto, at least five pounds of salt for each animal they turn upon the range, except sheep, which shall be one pound per head per annum, not counting calves, colts and lambs under six months old; *provided*, when said stock remain on any range continuously, the owner or owners shall be required to renew the said amount of salt once in six months; *provided*, that this shall not apply to anyone turning cattle, horses or sheep upon any range where salt naturally exists in sufficient quantities for the use of said stock.

**Sec. 2. Penalty.** Any person, company or corporation who refuses or neglects to comply with the requirements of this act shall be deemed guilty of a misdemeanor.

Approved this 7th day of March, 1905.

## CHAPTER 40.

### COMPENSATION OF MEMBERS OF THE BOARD OF EDUCATION IN CITIES.

**An Act to amend section 1905, Revised Statutes of Utah, 1898, relating to compensation of members of the board of education in cities.**

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 1905, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

1905. **Compensation of members.** The members of the Board of Education shall fix the compensation to be received for their services, at a sum not to exceed one hundred dollars per annum.

No member of the Board of Education shall take any contract, receive appointment or perform labor for which he shall receive payment from the school funds or in anyway receive compensation other than the salary herein provided.

1905 a. **Penalty.** Any violation of the provision of this act shall be deemed a misdemeanor.

Approved this 7th day of March, 1905.

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## CHAPTER 41.

### TAKING DEPOSITIONS WITHOUT THE STATE.

**An Act providing an additional method for taking of depositions without the State.**

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Depositions upon oral interrogatories.** The testimony of witnesses out of this State may also be taken, in addition to the method now provided by law, by depositions upon oral interrogatories and answers, in the following manner: The party taking such depositions shall serve upon the adverse party, or his attorney, a written notice specifying the title of the action in which the depositions are to be taken, the name and official character of the person before whom the depositions are to be taken, the time and place for taking the same, and the names of the witnesses to be examined. Such notice shall be served at least ten days previous to the day of taking such depositions, to which time shall be added one day for every two hundred miles, or

fraction thereof, intervening between the place of trial and the place of taking such depositions.

**Sec. 2. When defendant has not appeared.** When the summons in an action has been served upon the defendant therein in the manner provided by law, and the time allowed such defendant to answer has expired, and he has in no way appeared in such action, the plaintiff may take the deposition of any witness without notice to such defendant, and such deposition may be introduced in evidence in the action, and shall have the same force and effect as a deposition taken upon notice.

**Sec. 3. Non-resident defendant.** When the party against whom the deposition is to be heard is absent from or is not a resident of the State, and he has no agent or attorney therein upon whom service may be made, notice of the taking of a deposition may be served upon him by publishing the same three times, once each week for three successive weeks in some newspaper printed in the county where the action or proceeding is pending, if one is printed in such county; and if not, in some newspaper printed at the seat of government of this State. Personal service of the notice on the defendant out of the State shall be equivalent to such publication.

**Sec. 4. Before whom taken.** Such depositions may be taken before a judge, justice, or Chancellor of any Court of record, a Justice of the peace, a notary public, the mayor or chief Magistrate of any municipal corporation, a Commissioner appointed by the Governor of this State to take depositions, or any special commissioner appointed by the Court in which the action is pending, for that purpose. a Cónsul, a Vice-Consul, or consular agent, or any other officer or person authorized to administer oaths by the law of the place where such depositions are taken; *provided*, that when a deposition is taken before an officer not having a seal, the jurat or certificate of such officer shall be accompanied by a certificate of a Clerk of Court or record, or of an officer having custody of the records of official appointments, or tenures, setting forth the fact that the officer so taking such deposition is in fact such officer, and that his signature is genuine. When such depositions are taken before an officer having a seal, such seal shall be sufficient authentication of his office and authority.

**Sec. 5. How taken.** The deposition shall be taken or written in the presence of the officer before whom it is taken, either by the officer, the witness, or some disinterested person, and subscribed by the witness when completed. Nothing herein shall prevent depositions being written in shorthand and afterwards transcribed in typewriting or writing, or being taken by graphophone, or other mechanism, and transcribed therefrom in typewriting or writing.

**Sec. 6. How transmitted.** The deposition so taken shall be sealed in an envelope endorsed with the title of the cause, and the name of

the officer before whom it was taken, and such officer shall address and transmit the same to the Clerk of the Court where the action or proceeding is pending; and it shall remain under seal until opened by the Clerk, by order of the Court or at the request of a party to the proceeding, or his attorney.

**Sec. 7. How certified.** The officer before whom the deposition is taken shall annex thereto a certificate showing substantially the following facts:

1. That the witness was first duly sworn or affirmed to testify to the truth, the whole truth, and nothing but the truth.

2. That the deposition was reduced to writing by some person, naming him.

3. That the deposition was written or taken in the presence of the officer certifying thereto, at the time and place specified in the notice.

4. That the deposition was read by or to the witness and corrected and subscribed by him in the presence of said officer.

**Sec. 8. Objections, how made.** Every objection to the competency of the witness, or to the propriety of any question put to him, or the admissibility of any testimony given by him, may be made when the deposition is produced, in the same manner as if the witness were personally examined on the trial; and without being noted upon the deposition, unless the objection is to the form or order of a question, when the objection must be noted in the deposition before the question is answered.

**Sec. 9. How used.** Depositions taken under the provisions of this act may be used in evidence in all proceedings where depositions can be heard, as now provided by the laws of this State, and all existing laws relating to depositions, so far as applicable and not inconsistent with this act, shall apply to depositions taken pursuant to the provisions hereof.

Approved this 7th day of March, 1905.

**CHAPTER 42.****POWERS OF CITY COUNCILS.**

An Act to amend section 206, Revised Statutes of Utah, 1898, relating to the powers of City Councils as amended by chapter 124, laws of Utah, 1901, as further amended by chapter 138, laws of Utah, 1903.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 206 of the Revised Statutes of Utah, 1898, relating to the powers of City Councils, as amended by chapter 124 of the laws of Utah, 1901, and further amended by chapter 138, laws of Utah, 1903, be, and the same is hereby amended to read as follows:

**Section 206. Powers of City Council.** The City Council shall have the following powers:

1. **Finances and property.** To control the finances and property of the corporation.

2. **Appropriations. Property.** To appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation; and to purchase, receive, hold, sell, lease, convey and dispose of property, real and personal, for the benefit of the city, both within and without its corporate boundaries; to improve and protect such property, and to do all other things in relation thereto as natural persons.

3. **Taxes.** To levy and collect taxes for general and special purposes on real and personal property, as provided by law.

4. **Licenses.** To fix the amount, terms, and manner of issuing licenses.

5. **Buildings.** To erect all needful buildings for the use of the city.

6. **Borrow Money.** To borrow money on the credit of the corporation for corporate purposes, in the manner and to the extent allowed by the Constitution and the laws, and to issue warrants and bonds therefor, in such amounts and forms and on such conditions as the council shall determine. The council shall provide for the payment of the interest on such bonds as the same shall become due, and for a sinking fund for the payment of the principal thereof, within twenty years after issuing the same.

7. **Issue bonds.** To issue bonds in place of or to supply means to meet maturing bonds or for the consolidation or refunding of the same.



8. **Streets, sidewalks, parks.** To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, parks, and public grounds; and to vacate the same.

9. **Trees.** To plant or direct and regulate the planting of ornamental shade trees in streets, avenues, sidewalks, parks and public grounds.

10. **Use of streets and parks.** To regulate the use of streets, alleys, avenues, sidewalks, crosswalks, parks and public grounds.

11. **Id. Obstructions.** To prevent and remove obstructions and encroachments upon the same.

12. **Id. Lighting, etc.** To provide for the lighting, sprinkling and cleansing of the same; *provided*, that the city council shall have the power to create sprinkling districts and levy a special tax therefor on the property to be benefitted thereby.

13. **Id. Gas and water mains, etc.** To regulate the opening and use thereof for the laying of gas or water mains and pipes, and the building and repairing of sewers, tunnels and drains.

14. **Water, gas and light works.** To construct and maintain waterworks, gas works, electric light works, telephone lines, street railways or bath houses, or to authorize the construction and maintenance of the same by others, or to purchase or lease any or all of said works from any person or corporation.

15. **Protect water supply.** To construct or authorize the construction of waterworks, without their limits; and for the purpose of maintaining and protecting the same from injury and the water from pollution, their jurisdiction shall extend over the territory occupied by such works; and over all reservoirs, streams, canals, ditches, pipes, and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken, for ten miles above the point from which it is taken; and to enact all ordinances and regulations necessary to carry the power herein conferred into effect; *provided*, however, that each city of the first class shall provide a highway in and through its corporate limits, and so far as its jurisdiction extends, which shall not be closed to cattle, horses, sheep or hogs, which are being driven through any such city or through any territory adjacent thereto, over which the said city has jurisdiction, but the city council of such city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses and hogs through such city, or any territory adjacent thereto over which the said city has jurisdiction.

16. **Tax districts.** To divide the city into districts for the purpose of local taxation, or to create districts for that purpose, as occasion may require.

**17. Control of water.** To control the water and water courses leading to the city, and to regulate and control the water courses and mill privileges within the city; *provided*, that the control shall not be exercised to the injury of any rights already acquired by actual owners. And *provided, further*, that when the city council of any city, is acting as distributing agent of the water, not the property of the corporation, outside of, or within the corporate limits of such city, such council may, and is hereby authorized to levy such a tax as may be necessary annually, for the purpose of controlling, regulating and distributing such water and constructing and keeping in repair the necessary means for diverting, conveying and distributing the same; *provided* that the funds derived from the levy of said tax shall not be appropriated or used for any other purpose, and in the event that if more tax is levied and collected in any one year than is necessary for said purposes the excess thereof or balance shall be carried to the account of the year next following and applied to the purpose for which it was collected. Said tax shall be levied and collected as provided by ordinance, and until collected, the same shall be a lien upon such water rights and the land irrigated thereby.

**18. Purchase or lease water, canals, etc.** To construct, purchase, or lease, and maintain canals, ditches artesian wells and reservoirs; and to purchase or lease springs, streams, or sources of water supply for the purpose of providing water for irrigation, domestic or other useful purposes; and prevent all waste of water flowing from artesian wells and if necessary to secure said sources of water supply, to purchase or lease the land from which said water has been appropriated or applied. Also to purchase, acquire or lease stock in canal companies and water companies for the purpose of providing water for said city or town and the inhabitants thereof.

Whenever a city council or city is acting as distributing agent of the water not the property of the corporation outside of or within the corporate limits of such city as provided in the preceding sub-division of this section, such city, upon written petition of the owners of such water may increase the supply of said water owned by said persons by any of the means provided in this sub-division, and for that purpose may levy and collect from the owners of such water a tax not exceeding such sum per acre of land owned by such persons as may have been agreed upon and designated in said petition, said tax when so collected to be appropriated exclusively to said purpose, except such part thereof as is necessary to pay the expense of levying and collecting the same. Said tax shall constitute a lien upon the water rights of said persons and the land irrigated thereby, and shall be levied and collected as provided in the preceding sub-division of this section.

19. **Lighting works and contracts.** To contract with and authorize any person, company, or association to construct gas works, electric, or other lighting works in said city, and give such persons, company, or association, the privilege of furnishing light for the public buildings, streets, sidewalks and alleys of said city, for any length of time not exceeding three years.

20. **Lighting streets. Regulation of sale of light and power.** To provide for the lighting of streets, laying down of gas pipes, and erection of lamp posts; to regulate the sale and use of gas, natural gas, and electric or other lights, and electric power, the charge therefor, and the rent of meters within the city, and to regulate the inspection thereof; to prohibit or regulate the erection of telegraph, telephone, or electric wire poles, in the public grounds, streets, or alleys, and the placing of wires thereon; and to require the removal from the public grounds, streets, or alleys, of any or all such poles, and the placing underground of any or all telegraph, telephone or electric wires.

21. **Water rates.** To fix the rate to be paid for the use of water furnished by the city, or by any person or corporation.

22. **Use of sidewalks.** To regulate the use of sidewalks and all structures thereunder or thereover, and to require the owner or occupant of any property to keep the sidewalks in front of or along the same free from snow and all other obstructions.

23. **Obstructing streets.** To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage, or any offensive matter in, and to prevent injury or obstruction to any street, avenue, alley, park or public ground.

24. **Curbs and gutters.** To provide for and regulate crosswalks, curbs and gutters.

25. **Signs, awnings, etc.** To regulate or prevent the use of streets, sidewalks, public buildings, and grounds, for signs, sign posts, awnings, telegraph or telephone poles, horse troughs, or racks, or for posting hand bills or advertisements.

26. **Handbills.** To regulate or prohibit the exhibition, distribution, or carrying of placards or hand bills in the streets, public grounds or upon the sidewalks.

27. **Flags, banners.** To regulate or prevent the flying of flags, banners, or signs across the streets or from houses.

28. **Street traffic.** To regulate or prohibit traffic and sales upon the streets, sidewalks, and public places.

29. **Speed of horses and vehicles.** To regulate the speed of horses and other animals, bicycles, automobiles, and other vehicles, and cars and locomotives within the limits of the corporations; and to prevent horse racing, immoderate driving or riding in the streets.

**30. Numbering houses.** To regulate the numbering of houses and lots.

**31. Naming streets.** To name streets, avenues, and other public places, and to change the names thereof.

**32. Railroad tracks.** To permit, regulate, or prohibit the locating, constructing, or laying the tracks of any railroad or tramway in any street, alley, or public place; and to grant franchises to railroad companies, and to union railroad depot companies, to lay, maintain, and operate in any street or part or parts of streets, of said cities, or other public places therein, railroad tracks, and union railroad depot connecting and terminal tracks, but such permission shall not be for a longer time than one hundred years.

**33. Id.** To provide for or change the location, grade, or crossing of any railroad; and to declare a nuisance and to take up and remove, or to cause to be taken up and removed, the tracks of any street railway company which shall have been laid upon the streets or highways of the city and which such railway company has failed to operate with cars for public use for a period of nine months after the laying thereof.

**34. Railroad fences, crossings, etc.** To require railroad companies to fence their respective railroads or any portion of the same and to construct cattle guards, crossings of streets and public roads, and keep the same in repair within the limits of the corporation.

**35. Flagmen's crossings. Drainage.** To require railroad companies to keep flagmen at railroad crossings of streets or other wise to provide protection against injury to persons or property; to compel such companies to raise or lower their railroad tracks to conform to any grade which at any time may be established by such city, so that such tracks may be crossed at any place on any streets, alley, or highway; to compel railroad companies to make and keep open and to keep in repair, ditches, drains, sewers, and culverts along and under their railroad tracks so that the natural or artificial drainage of adjacent property shall not be impaired.

**36. Bridges, etc.** To construct and keep in repair bridges, viaducts and tunnels, and to regulate the use thereof.

**37. Drains, sewers, etc.** To construct and keep in repair culverts, drains, sewers, catch basins, manholes, and cesspools, and to regulate the construction and use thereof.

**38. Licenses generally.** To license, tax, regulate, hawking, peddling, pawn-brokerage, loan agencies, employment agencies, the keeping of ordinaries, theatricals, and other exhibitions, shows, and amusements, and the business conducted by ticket scalpers, distilleries, brew-

eries, money changers, brokers, keepers of public scales, runners for stages, cars, public houses or other persons or things, and to revoke such license at pleasure; to license, tax and regulate banks, bath houses, livery stables, skating rinks, smelters, crushers, express companies, restaurants, hotels, taverns, theatres, opera houses, music halls, boarding houses, eating houses, chop houses, lodging houses, laundries, barber shops, second hand or junk stores, and to forbid the owners or persons in charge of said stores from purchasing or receiving any article whatever from minors without the written consent of their guardians or parents, and storage houses and to require bond to the city for the benefit of bailors therein; to license, tax, regulate the business conducted by hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen, and all others pursuing like occupations and to prescribe their compensation; to license, tax, and regulate the business conducted by merchants, retailers, shop and storekeepers, butchers, druggists, photographers, assayers, confectioners, furniture dealers, coal dealers, lumber dealers and fruit peddlers, and solicitors. To license, tax, and regulate bill boards, bill posting, and the distribution of advertising matter.

To license, tax and regulate the running of automobiles, street railway and steam cars, bicycles and other vehicles.

**39. Games and dancing.** To license, tax, regulate, and suppress billiard, bagatelle, pigeon hole, or any other tables or implements kept or used for similar purpose; also pin alleys or tables, or ball alleys. Also to license, tax, regulate, in cities of the first and second class, prohibit or suppress dancing halls, dancing resorts, dancing pavilions and all places or resorts to which persons of opposite sexes may resort for the purpose of dancing or indulging in other social amusements.

**40. Disorderly houses.** To suppress and prohibit the keeping of bawdy and other disorderly houses, houses of ill-fame or assignation, or houses kept by, maintained for, or resorted to or used by one or more females for lewdness or prostitution within the limits of the city, and within three miles of the outer boundaries thereof, and to prohibit the resorting thereto for any of the purposes aforesaid; and also to suppress and prohibit gambling and gambling houses, lotteries, and all fraudulent devices and practices, and all kinds of gaming, playing at dice, cards, and other games of chance, and to prohibit music or singing or the sale or exhibition of obscene or immoral publications, prints, pictures, or illustrations.

**41. Liquor license.** To license and regulate or prohibit the manufacturing, selling, giving away, or disposition in any manner, of any intoxicating, malt, vinous, mixed, or fermented liquor, the license not to extend beyond the municipal year in which it shall be granted, and

to determine the amount to be paid for such license; and said license shall be subject to the same restrictions as required by the general laws of the State, and said council shall require of all persons applying for a license hereunder a bond in good and sufficient security and with like conditions as required by the general laws of the State in this regard; *provided*, that no other or further permit or license shall be required by the county in which said city is situated to enable such person or persons so licensed to sell or deal therein within the limits of the corporation.

**42. Selling liquor to minors, etc.** To punish and prohibit the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquor to any minor, insane or idiotic person, habitual drunkard, or in the habit of getting intoxicated, or person intoxicated; and also to punish the keeping, maintaining, or becoming an inmate of, visiting, or in any way contributing to the support of, any place, house, or room where opium is smoked, or where persons assemble for the purpose of smoking opium or inhaling the fumes of opium, or where opium is sold for such purposes.

**43. Markets.** To establish markets and market houses, and provide for the regulation and use thereof.

**44. Id.** To provide for the place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions, and regulate the selling of the same.

**45. Inspection of provisions.** To provide for and regulate the inspection of meats, fruits, poultry, fish, butter, cheese, lard, vegetables, flour, meal, and all other provisions.

**46. Inspection of merchandise.** To provide for the inspection, measurement, or graduation of any merchandise, manufacture, or commodity, and to appoint the necessary officers therefor.

**47. Weights and measures.** To provide for the inspection and sealing of weights and measures.

**48. Id.** To enforce the keeping of proper weights and measures, by vendors.

**49. Plumbing.** To regulate the construction, repairs, and use of vaults, cisterns, areas, hydrants, pumps, sewers, gutters and plumbing, and to provide for a Board of Examiners to examine into the fitness and qualifications of persons following the plumbing trade; and to prescribe what qualifications are necessary of persons following said trade.

**50. Disorderly conduct.** Obtaining money under false pretenses. To prevent intoxication, fighting, gambling, quarreling, dog fights, cock fights, prize fights, bull fights and all disorderly conduct, and to

provide against and prevent the offenses of assault and battery and petit larceny; to restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house or place in the city; to regulate or prevent the discharge of firearms, rockets, powder fireworks, or any other dangerous or combustible material in the streets, lots, grounds, alleys, or about or in the vicinities of public buildings.

To provide against and prevent the offense of obtaining money or property under false pretenses, or the offense of embezzling money or property, in all cases where the money or property embezzled or obtained by false pretenses, does not exceed in value the sum of fifty dollars.

**51. Concealed weapons.** To regulate and prohibit the carrying of concealed weapons.

**52. Vagrants.** To arrest, fine or set to work on the streets or elsewhere all vagrants, mendicants, and persons found in said city without visible means of support or some legitimate business.

**53. Disorderly conduct.** To provide for the punishment of persons disturbing the peace and good order of the city or any lawful assembly, by clamor or noise or by intoxication, fighting, or using obscene or profane language, or otherwise violating the public peace by indecent or disorderly conduct, or by lewd or lascivious behavior and to punish for interfering with any city officer in the discharge of his duty. Also to provide for the punishment of trespass and such other petty offenses as the city council may deem proper.

**54.** To provide for the punishment of tramps, common street beggars, common prostitutes, habitual disturbers of the peace, pick-pockets, gamblers, thieves, or persons who practice any game, trick, or device, with intent to swindle.

**55. Fire limits.** To define the fire limits, and prescribe limits within which no building shall be constructed, except of brick, stone, or other incombustible material, without permission. and to cause the destruction, or removal of any building constructed or repaired in violation of any ordinance, and to cause all buildings and enclosures which may be in a dangerous state to be put in a safe condition or removed.

**56. Construction of buildings.** To prescribe the manner of constructing stone, brick and other buildings, and the construction of fire escapes; and to cause all buildings used for public purposes to be provided with sufficient and ample means of exit and entrance, and to be supplied with necessary and appropriate appliances for the extinguishment of fire, to prevent the overcrowding thereof and to regulate the placing and use of seats, chairs, benches, scenery, curtains, blinds, screens, or other appliances therein.

57. **Chimneys, boilers, etc.** To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stove-pipes, heaters, ovens, furnaces, boilers, and apparatus used in and about buildings and manufactories, and cause the same to be removed or placed in a safe condition.

58. **Prevention of fire.** To regulate and prevent the carrying on of manufacturing likely to cause fires, and to prevent the deposit of ashes in unsafe places.

59. **Fire department.** Except as otherwise provided by law, to provide for the organization and support of a fire department; to procure fire engines, hooks, ladders, buckets, and other apparatus; and to organize fire engine and hook and ladder companies and to prescribe rules, duties, and government therein, with such penalty as the council may deem proper, and to make all necessary appropriation therefor; and to establish regulations for the prevention and extinguishment of fires.

60. **Combustibles and explosives.** To regulate or prevent the storage of gunpowder, tar, pitch, resin, coaloil, benzine, turpentine, nitro-glycerine, petroleum, or any of the products thereof, and other combustibles or explosive material, and the use of lights in stables, shops, and other places, and the building of bonfires.

61. **Steam boilers and elevators.** To provide for the inspection and to regulate the use of steam boilers; to provide for the examination, regulation and licensing of stationary engineers and others having charge or control of stationary engines, boilers, or steam generating apparatus, or elevators within the corporate limits of the city.

62. **City jails.** To establish, erect and maintain the city jails, houses of correction and work houses for the confinement of persons convicted of violating any city ordinance, and to make rules and regulations for the government of the same, and to appoint necessary jailers and keepers; and to use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by the law, and with the consent of the board of county commissioners.

63. **Cruelty to animals.** To prohibit cruelty to animals.

64. **Nuisances.** To declare what shall be a nuisance and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist.

65. **Health and quarantine.** To make regulations to secure the general health of the city, to prevent the introduction of contagious, infectious, or malignant diseases into the city, and to make quarantine laws and enforce the same within the corporate limits, and within twelve miles thereof. To create a board of health and prescribe the powers and duties of the same.



**66. Cemeteries and hospitals.** To purchase, hold and pay for the lands within or without the corporate limits for the burial of the dead and all necessary grounds for hospitals, and to have and exercise police jurisdiction over the same, and over any cemetery used by the inhabitants of said city; and to survey, plat, map, fence, ornament and otherwise improve all public burial and cemetery grounds; and to convey cemetery lots owned by said city and pass rules and ordinances for the protection and governing of said grounds.

**67. Births and deaths.** To regulate the burial of the dead and the registration of births and deaths; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons, and others for default therein.

**68. Estrays.** To regulate or prohibit the running at large within the limits of the city, horses, mules, asses, cattle, swine, sheep, goats, geese, and all kinds of poultry; to establish a pound and appoint a poundkeeper, and prescribe his duties, and to distrain and impound animals running at large, and to provide for the sale of the same in the same manner provided by the laws of the State for sale of estrays and trespassing animals. The proceeds rising from the sale of such animals, after the payment of all costs, shall go to the city treasury to be disposed of according to law.

**69. Dogs.** To license, tax, regulate or prohibit the keeping of dogs, and authorize the destruction of the same when at large contrary to ordinance.

**70. Packing houses, etc.** To direct the location and regulate the management and construction of packing houses, tanneries, canneries, renderies, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, and blacksmith shops in and within one mile of the limits of the corporation.

**71. Offensive trade.** To prohibit any offensive, unwholesome business or establishment in and within one mile of the limits of the corporation; to compel the owner of any pigsty, privy, barn, corral, sewer, or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.

**72. Census.** To provide for taking the census, but no census shall be taken oftener than once in five years, except as provided in chapter 1 of this title.

**73. Public buildings.** To provide for the construction and care of all public buildings necessary for the use of the city.

**74. Annoying amusements.** To prevent or regulate the rolling of hoops, playing of ball, flying of kites, riding of bicycles or tricycles, or any other amusements or practice having a tendency to annoy persons passing in the streets, or on sidewalks, or to frighten teams or horses.

**75. Lumber yards, etc.** To regulate or prohibit the keeping of any lumber yard, and the placing or piling or selling of any lumber, timber, wood or other combustible material within the fire limits of the city.

**76. Water works, fire signals.** To purchase, construct, lease, rent, manage, and maintain any system or part of any system of water-works, hydrants, and supplies of water, telegraphic fire signals, of fire apparatus, and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or constructed.

**77. Public libraries.** To establish, maintain, and regulate free public libraries and reading rooms as provided by law, and to perpetuate such free libraries and reading rooms, as may have been heretofore established in said cities.

**78. Public traffic.** To regulate or prohibit all public demonstrations and processions which interfere with the public traffic.

**79. Burial of indigent dead.** To provide for the burial of the indigent dead, and to pay the expenses thereof.

**80. Education.** To authorize the taking and to provide for the safe keeping and education, for such periods of time as may be expedient, of all children who are destitute of proper parental care.

**81. Inspection liquor.** To regulate the inspection of malt, vinous, fermented and spirituous liquors.

**82. Street tax.** To provide by ordinance for the annual levy and collection of a street tax to be assessed upon the property, real and personal, of the city, which tax, if levied and collected, shall be in lieu of the tax provided for in sub-division 3 of section 253. Said tax shall not in any one year exceed one-half of one per cent, and shall be expended for the opening, widening, grading and improving of the streets, sidewalks, avenues and alleys of the city.

**83. Street noises.** To prevent the ringing of bells, blowing of horns and bugles, crying of goods by auctioneers and others, and the making of other noises, for the purpose of business, amusements or otherwise, and to prevent all performances and devices tending to the collection of persons on the streets or sidewalks of the city.

**84. Fastening animals.** To compel persons to fasten animals attached to vehicles standing or remaining in the street.

**85. Official bonds and reports.** To require all municipal officers and agents elected or appointed to give bond and security for the faithful performance of their duties, and to require from every officer of the city at any time a report in detail of all transactions in his office, or any matters connected therewith.

86. **Create offices. Provide for vacancies.** To create any office that may be deemed necessary for the good government of the city; and to provide for all vacancies in elective and appointive offices to regulate and prescribe the powers, duties and compensation of all officers of the city, except as otherwise provided by law.

87. **Licenses and taxes.** To raise revenue by levying and collecting a license fee or tax on any private corporation or business within the limits of the city, and regulate the same by ordinance; all such license fees and taxes shall be uniform in respect to the class upon which they are imposed.

88. **Ordinances.** To pass all ordinances and rules and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by this title, and such as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace, good order, comfort, and convenience of the city and the inhabitants thereof, and for the protection of property therein; and to enforce obedience to such ordinances with such fines or penalties as the city council may deem proper; *provided*, that the punishment of any offense shall be by a fine in any sum less than three hundred dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Sec. 2. This act shall take effect upon approval.

Approved this 7th day of March, 1905.

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## CHAPTER 43.

### ARMORY BOARD FOR NATIONAL GUARD.

An Act creating an armory board for the National Guard of Utah, defining the powers of the board, and making certain appropriations for the use of the board.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Armory Board created.** An Armory Board for the National Guard of Utah is hereby created which shall consist of the Governor, Secretary of State, Adjutant General and Brigadier General of the first brigade, whose duties shall be a general supervision and control of the armories and arsenals of this State with the power and authority in said Board to provide suitable armories and arsenals for the different organizations of the National Guard of Utah.

**Sec. 2. Powers of.** The Armory Board shall have the power to lease suitable buildings for armory and arsenal purposes in various places throughout the State wherever necessary for the use of organizations of the National Guard of Utah, and for the storage of State and Government property, for a term of years not exceeding twenty, at such rental as the Board shall deem reasonable. The Armory Board shall have the further power to take options for the purchase of any premises under lease to the State for armory and arsenal purposes, at any time within the life of such lease, when it shall appear to be to the interest of the State to purchase, at such prices as the Board and owner of said buildings may agree upon. Provided that no option shall be binding upon the State until ratified by an act of the Legislature.

**Sec. 3. Appropriation.** For the use of this Board and for the purposes mentioned, the sum of ten thousand dollars per annum is appropriated out of any moneys in the State Treasury not otherwise appropriated to be held by the Treasurer of the State as a military fund and to be by him disbursed upon the order of the Board.

**Sec. 4. Unexpected balances.** All unexpected balances of any moneys appropriated by the State for military purpose for a stated period shall be turned over to the treasurer of the State for the credit of the military fund.

**Section 5.** This act shall take effect upon approval.

Approved this 8th day of March, 1905.

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## CHAPTER 44.

### TRESPASS.

An Act to amend section 4430, Revised Statutes of Utah, 1898, as amended by chapter 101, laws of Utah, 1903, relating to trespass and injuries to property.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 4430, Revised Statutes of Utah, 1898, as amended by chapter 101, laws of Utah, 1903, be, and the same is hereby amended to read as follows:

**4430. Trespass and injury to property.** Every person who wilfully and maliciously commits any trespass, by either:

1. Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon land of another; or,

2. Carrying away any kind of wood or timber, that has been cut down and lying on such lands; or,

3. Maliciously injuring or severing from the freehold of another, anything attached thereto, or the product thereof; or,

4. Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone; or,

5. Digging, taking, or carrying away from any land in any of the cities of the State, laid down on the map, or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone; or,

6. Putting up, affixing, fastening, printing, or painting upon any property belonging to the State, or to any city, county, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for, any commodity, whether for sale or otherwise, or any picture, sign, or device, intended to call attention thereto; or,

7. Using any animal, vehicle, machine, or other personal property of the owner or person having charge of such property, without the consent of the owner or owners thereof, or any person or persons having charge of such property, is guilty of a misdemeanor.

Approved this 8th day of March, 1905.

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## CHAPTER 45.

### MANNER OF COMMENCING ACTIONS AND ISSUING SUMMONS.

An Act to amend section 15, chapter 109, laws of Utah, 1901, as amended by section 1, chapter 39, laws of Utah, 1903, relating to the manner of commencing actions and issuing summons and the form thereof in city courts in cities of the first class.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 15, chapter 109, laws of Utah, 1901, as amended by section 1, chapter 39, laws of Utah, 1903, be, and the same is hereby amended to read as follows:

15. Commencing action in city court. The manner of commencing an action in a city court, the requisites of a summons, and the man-

ner of service and return of summons, shall conform as nearly as may be, to the practice prescribed for District Courts; *provided*, that the summons must contain a direction that the defendant must appear within ten days after the service of summons if served in the county in which the action is brought, otherwise within twenty days after its service. If a copy of the complaint is not served with the summons, the words "of which a copy is herewith served upon you," may be omitted or erased, and in place thereof may be inserted the words "which within five days after service of this summons upon you, will be filed in said court."

If a copy of the complaint be not served with the summons, and a copy thereof be not deposited with the clerk of said court within five days after service of the summons, the copy of the summons served on the defendant may be filed with the clerk of the court by the defendant and thereupon the clerk shall docket said action and the same shall be dismissed by the Court on motion of the defendant at the cost of plaintiff.

Approved this 8th day of March, 1905.

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## CHAPTER 46.

### PENALTY FOR BRIBING WITNESS.

An Act amending section 4136, Revised Statutes of Utah, 1898, providing a penalty for bribing or attempting to bribe a witness or person about to be called as a witness.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 4136, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

4136. **Bribing witness.** Every person who gives or offers, or promises to give, to any witness or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness or person about to be called as a witness shall be thereby influenced, or who attempts by any other means fraudulently to induce any witness or person about to be called as a witness to give false or to withhold true testimony, is guilty of a felony.

Approved this 8th day of March, 1905.

## CHAPTER 47.

## FEES OF COUNTY RECORDERS.

An Act to amend section 973, Revised Statutes of Utah, 1898, providing for the collection of fees of county recorders.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 973, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

973. County recorder's fees. For recording any instrument, paper, or notice, other than bonds of public officers, not otherwise provided for, for the first folio, fifty cents, to include necessary filing, indexing, and abstracting, and for each additional folio, twenty cents; *provided*, however, that where any instrument, paper or notice contains more than one description, an additional fee of ten cents for each of such additional description shall be collected. In any instrument in which a right of way is described, which is connected with or is appurtenant to any tract of land described in such instrument, the description of such right of way shall not constitute a separate description; *provided*, that where such instrument contains a description of more than one such right of way, an additional fee of ten cents for each such right of way shall be collected; *provided further*, that where any instrument contains more than two names each for either first or second party, or plaintiffs, or defendants, or locators of a mining claim, for each additional name, ten cents; and *provided further*, that where any affidavit or proof of labor contains the name of more than one mining claim, an additional fee of ten cents for each additional mining claim mentioned therein shall be collected.

*Amended  
Chap 61  
Law 1907*

For copies of any record or paper, ten cents per folio.

For each certificate under seal, fifty cents.

For each entry of certificate of discharge of mortgage, deed of trust, or other instrument in the book kept for that purpose, and making the necessary reference on the record of the original instrument, fifty cents.

For releasing any instrument on the margin of the record, twenty-five cents.

For searching files or records in his office, one dollar per hour.

For recording any plat or map of a subdivision into lots and block, fifteen cents for each lot, and twenty-five cents for each folio of figures, letters and characters.

For recording any other plat or map, ten cents for each course or line, and twenty-five cents for each folio of figures, letters and characters.

For taking and certifying acknowledgments, including seal, fifty cents for one name; each additional name twenty-five cents.

For certificate attached to abstract of title, seventy-five cents.

For each entry in an abstract of title, not including entries on margin of record, fifty cents.

For entry on abstract of title satisfaction or release of mortgage, trust deed, or other lien, having been made on margin of record, ten cents.

For recording medical certificates, one dollar.

For all other services not herein enumerated, a reasonable compensation.

Approved this 8th day of March, 1905.

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## CHAPTER 48.

### DEFINING THE WORD "FOLIO."

An Act to amend section 1022, Revised Statutes of Utah, 1898, defining the word "folio,"

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 1022, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

1032. **Folio defined.** The term "folio," when used as a measure for computing fees, shall be construed to mean one hundred words, counting every number expressed in numerals as a word; *provided*, that in computing the fees to be charged by the County Recorder for recording any plat or map the word "folio" shall be construed to mean one hundred numbers, letters or characters. Any portion of a folio, when in the whole draft or paper there shall not be a complete folio, or when there shall be an excess over the last folio exceeding one-half, shall be computed as a folio.

Approved this 8th day of March, 1905.



## CHAPTER 49.

## REPORTS AND SETTLEMENTS OF COUNTY TREASURERS.

An Act to amend section 2664, Revised Statutes of Utah, 1898, relating to reports and settlements of county treasurers.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2664, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

2664. **Penalty for neglecting to settle.** Every county treasurer who neglects or refuses to settle or make payment as herein required, shall forfeit three months salary, and upon notice from the state auditor to the county commissioners, that said settlement has not been made, the county commissioners must withhold such compensation.

Approved this 8th day of March, 1905.

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## CHAPTER 50.

## COURT STENOGRAPHERS AND FEES.

An Act to amend section 9, chapter 72, laws of Utah, 1899, relating to court stenographers and fees to be collected.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 9, chapter 72, laws of Utah, 1899, be, and the same is hereby amended to read as follows:

9. **Fee upon filing each case.** A Stenographer's fee of three dollars shall be collected by the clerk of the court, in each case, upon the filing of said case, which shall be paid to the county treasurer, by said clerk, and may be taxed as costs in the action, *provided*, that no stenographer's fee shall be charged or collected in probate matters unless the same be contested, and then the fees shall be paid by the party contesting; *provided*, that in all actions now pending the clerk of the court shall at once collect the fee as herein provided; and *provided further*, that in no case shall the State be liable for such fee.

Approved this 8th day of March, 1905.

**CHAPTER 51.****RECORDING INSTRUMENTS IN OFFICE OF COUNTY RECORDER.**

**An Act to provide for recording instruments in the office of county recorders.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Certain instruments to be recorded.** All papers, notices and instruments of writing required, by the Revised Statutes of Utah, 1898, and the laws of Utah subsequent thereto, to be filed in the office of county recorders, shall hereafter be recorded.

Approved this 8th day of March, 1905.

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**CHAPTER 52.****TO PROHIBIT SALE TO AND CARRYING OF FIREARMS BY MINORS.**

**An Act to prohibit the sale of firearms to minors and the carrying of firearms by minors, and prescribing penalties for violation thereof.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION. 1. Selling or giving firearms to minors under fourteen.** Any person who sells, gives, or disposes of, or offers to sell, give or dispose of, any pistol, gun, target gun or other firearm, to any person under the age of fourteen years, is guilty of a misdemeanor.

**Sec. 2. Minor under fourteen must not carry firearms.** Any person under the age of fourteen years who shall carry, or have in his possession, any pistol, gun, target gun or other firearm, unless accompanied by a parent or guardian, shall be guilty of a misdemeanor.

Approved this 9th day of March, 1905.

## CHAPTER 53.

## CONTINGENT EXPENSES OF LEGISLATURE.

An Act to provide for the regular and contingent expenses of the sixth session of the Legislature of the State of Utah.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Appropriation.** That the sum of ten thousand dollars, or so much thereof as may be necessary, be, and the same is hereby appropriated out of the funds of the State Treasury for the purpose of defraying the regular and contingent expenses of the sixth session of the Legislature; and the state auditor shall draw his warrant on the state treasurer for such money, or any portion thereof, upon the request in writing of the president and secretary of the Senate and speaker and chief clerk of the House of Representatives.

Sec. 2. This act shall take effect upon approval.

Approved this 9th day of March, 1905.

## CHAPTER 54..

## LEWIS AND CLARK EXPOSITION.

An Act creating a commission to provide for the display of Utah's resources at the Lewis and Clark Centennial and American Pacific Exposition and Oriental Fair at Portland, Oregon, in 1905; to define its duties and powers, to make an appropriation therefor, in addition to that made by section 10 of chapter 96, laws of Utah, 1903, and repealing sections 1, 2, 3, 4, 5, 6, 7, 8 and 9 of chapter 96, laws of Utah, 1903.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Lewis and Clark Centennial Exposition Commission created.** That for the purpose of advertising the resources of this State, the State of Utah shall participate in the Lewis and Clark Centennial and American Pacific Exposition and Oriental Fair, at Portland, Oregon, in the year 1905, and for that purpose a commission, to be known as the Lewis and Clark Centennial Exposition Commission, is hereby created, to be composed of the Governor and four members to be appointed by the Governor, by and with the consent of the Senate. The Governor shall be the chairman of such commission, and a treasurer shall be appointed by the commission, from the members thereof. Any vacancy occurring in such commission shall be filled by appointment by the Governor.

**Sec. 2. Must qualify.** Before entering upon the duties of their offices, the members, except the Governor, shall take the constitutional oath of office, and the treasurer shall give a bond in the sum of \$20,000, such bond to be approved by the Governor and thereupon filed with the Secretary of State.

**Sec. 3. Powers of.** The said commission shall have full power to devise and execute plans for the display of such exhibits from the State of Utah as may, in the opinion of the commission, be advisable to represent the resources and advantages of the State; to secure, encourage and aid exhibitors to make exhibits from this State at such exposition, and shall have control of such exhibits and the general direction of all matters connected therewith, and may adopt rules for carrying into effect the purpose of this act and the plans of said commission.

**Sec. 4. Buildings to be provided.** The commission is hereby authorized to provide, upon the grounds of the said exposition, a suitable building for the State of Utah for any purpose deemed necessary, or may unite with other States in the construction of a building to be used in common.

**Sec. 5. Employees to be engaged.** The commission is hereby authorized to engage such employees as may be necessary for the securing, arranging, transportation and display of exhibits, and for the erection, maintenance and management of the building herein provided for; *provided*, however, that the construction of said building and the expense of such exhibit shall in no case exceed the amount appropriated in this act.

**Sec. 6. No compensation to Commissioners.** The members of the commission shall serve without compensation, but shall be allowed their necessary expenses while actually engaged in the work of the commission, which shall be paid upon vouchers approved by the commission out of the appropriation hereinafter made.

**Sec. 7. Funds, how drawn.** The treasurer of the commission shall from time to time, as the funds may be required to carry out the provisions of this act, present estimates to the commission, and if approved by the commission, the chairman thereof shall so certify to the State Auditor and make requisition for the amount of the estimate, and the Auditor shall there upon draw his warrant in favor of the treasurer of the commission for the amount of such estimate.

**Sec. 8. Payments, how made.** All payments for the expenditures of the commission shall be made by the treasurer thereof upon orders issued and signed by the chairman of the commission. The treasurer shall keep a full and complete account of all expenditures, and no orders shall be issued upon the treasurer until proper vouchers for the same have been approved by the commission or a committee thereof.

**Sec. 9. Reports to be filed with State Auditor.** The commission shall file with the State Auditor monthly reports of its receipts and disbursements, accompanied with properly and fully itemized vouchers of all expenditures, which report shall be duly verified by the oath of the treasurer of the commission. Upon the conclusion of its services the commission shall make to the Governor a complete report of its proceedings under this act, and if any money remains unexpended, the same shall be recovered into the State Treasury.

**Sec. 10. Appropriation.** The sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated for the purpose of carrying into effect the provisions of this act; *provided*, that the sum of \$10,000 or the balance thereof remaining unexpended from the appropriation made by section 10 of chapter 96, laws of Utah, 1903, is hereby made applicable to the purpose of carrying into effect the provisions of this act and shall be expended in the same manner as the appropriation provided for in this act. And *provided further*, that under no circumstances shall the Board create any deficit and the State is hereby relieved from all obligation to pay any amount over and above the amount appropriated by this act.

**Sec. 11. Exhibits, disposition of.** All exhibits of the Louisiana Purchase Exposition Commission belonging to the State of Utah and used at the Exposition herein referred to, and all exhibits of the commission in this act created shall be carefully preserved by the commission and at the close of said Exposition herein referred to must be returned to the State of Utah and delivered, the concentration mill to the University of Utah and the balance of the exhibits to the Deseret Agricultural Manufacturing Association; *provided*, that in the judgment of said commission any exhibit may be sold and the proceeds of such sale covered into the State Treasury.

**Sec. 12. Repeal.** That sections 1-2-3-4-5-6-7-8 and 9 of chapter 96, laws of Utah, 1903, be, and the same are hereby repealed.

Approved this 9th day of March, 1905.

## CHAPTER 55.

## REPORTS ON TUBERCULOSIS.

An Act requiring reports to be made on cases of tuberculosis, and requiring rules of State Board of Health, relating to such disease, to be complied with.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Tuberculosis to be reported.** It shall be the duty of every physician in the State, every superintendent of hospital or public institution in the State to immediately report to the State Board of Health every case of tuberculosis which he is called upon to treat or which is in such hospital or public institution. Each and every physician or superintendent shall make such reports as may be called for by the rules and regulations of the State Board of Health and must comply with all rules and regulations made by said Board to prevent the spread of such disease.

Sec. 2. **Penalty.** Any person violating any provision of this act shall be guilty of a misdemeanor.

Approved this 9th day of March, 1905.

## CHAPTER 56.

## PRESENT OWNERSHIP MAPS.

An Act amending section 2, chapter 43, laws of Utah, 1899, relating to present ownership maps.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2, chapter 43, laws of Utah, 1899, be, and the same is hereby amended to read as follows:

2. "Present ownership" maps delivered to county assessors. The county recorder shall on or before the third Monday in January of each year, transmit to the county assessor copies of the ownership plats and descriptions provided for in section 1, chapter 43, laws of Utah, 1899, as amended by chapter 84, laws of Utah, 1903, such copies to show owners at noon on the second Monday in January of such year.

Approved this 9th day of March, 1905.

*Chap 142  
Law 1907*

## CHAPTER 57.

## ERECTION OF SCHOOL HOUSES BY CONTRACT OR DAYS LABOR.

An Act amending section 1890, Revised Statutes of Utah, 1898, as amended by chapter 65, laws of Utah, 1903, relating to the erection of school houses by contract or days labor.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 1890, Revised Statutes of Utah, 1898, as amended by chapter 65, laws of Utah, 1903, be, and the same is hereby amended to read as follows:

1890. Buildings may be erected by contract or days' labor. When ever any school house is to be built, the trustees shall advertise for at least twenty days, in some newspaper printed in the county, or, if no newspaper is printed in the county, by posting notices for the same length of time in five conspicuous places in the county, for sealed proposals for building such school house, in whole or in part, in accordance with plans and specifications, which shall be furnished, by the trustees, stating in such advertisement or notice, the place where, and the day and hour when, all proposals will be opened, and reserving the right, to reject any and all proposals. At the time and place specified in said notice, the trustees shall meet and publicly open and read all proposals which have been received, and shall award the contract to the lowest responsible bidder. They shall require of such contractor a bond in double the amount of the contract, conditioned that he will properly perform the conditions of the contract in a faithful manner and in accordance with its provisions. In case none of the proposals are satisfactory, all shall be rejected, and said trustees shall advertise anew in the same manner as before, until a satisfactory proposal shall be submitted; *provided*, that the construction of buildings, by school districts may, in the judgment of the trustees, be done wholly or in part by days' labor or by contract; *Provided further*, that no trustee shall be pecuniarily interested, directly or indirectly, in the construction of any such building or in any contract provided for in this section.

Approved this 9th day of March, 1905.

**CHAPTER 58.****FEES OF PRECINCT OFFICERS.**

**An Act to amend section 978, Revised Statutes of Utah, 1898, relating to fees of precinct officers.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 978, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**978. Justice of the Peace.** Every justice of the peace may for his own use collect the following fees, and no other:

For taking charge of the body of any person supposed to have died by unlawful means, and making an investigation of the means, whereby the person came to his death where no inquest is held, three dollars.

For holding inquest, per day, three dollars.

For each mile necessarily traveled in going to place of inquest, one way only, fifteen cents.

For docketing each case, twenty-five cents.

For issuing summons, for one person, fifty cents; for each additional person named therein, twenty-five cents.

For each copy of any writ or process, including certificate, twenty-five cents.

For issuing writ of attachment or arrest, or for the delivery of property, or any other writ, fifty cents.

For issuing subpoena, including all witnesses required, twenty-five cents.

For each venire, fifty cents.

For each execution or order of sale, fifty cents.

For hearing any motion or demurrer, for each hour or fraction thereof, fifty cents.

For entering final judgment, fifty cents.

For each dismissal or continuance, twenty-five cents.

For each certificate, twenty-five cents.

For copy of any judgment, order, docket entry, or paper on file, for each folio, ten cents.



For swearing the jury, twenty-five cents.

For taking depositions, per folio, ten cents.

For filing each paper, ten cents.

For taking and approving any bond or undertaking, including justification of sureties, fifty cents.

For administering oath of affirmation to other than witnesses, twenty-five cents.

For swearing each witness, ten cents.

For entering satisfaction of judgment, twenty-five cents.

For issuing commission to take testimony, fifty cents.

For preparing and certifying transcript on appeal and transmitting papers, one dollar.

For all charges for making up and transmitting papers on change of venue, one dollar.

For entering cause without process, fifty cents.

For entering judgment by confession, one dollar.

For each warrant of arrest or search warrant, fifty cents.

For each commitment to jail, fifty cents.

For each recognizance or bail, fifty cents.

For entering judgment for fine or other punishment, fifty cents.

For order of discharge to jailor, twenty-five cents.

For solemnizing marriage, two dollars and fifty cents.

In actions for damages caused by trespassing animals, the fees shall be but one-half the amounts collected in other civil cases.

For hearing testimony or argument on the trial of a civil or criminal case or proceeding, per day, three dollars; *provided*, that in default cases, the fee shall be two dollars for all services up to and including the entry of judgment; and *provided further*, that where proceedings in any case occupy portions of more than one day, not more than one per diem compensation shall be charged unless the total number of hours occupied in the trial or hearing shall exceed six hours, in which case six hours shall be reckoned as a day for the purpose of fixing per diem compensation.

For issuing warrant of appraisement, under lien law, fifty cents.

For recording appraisement, or sale bill, under lien law, per folio, twenty cents.

Approved this 9th day of March, 1905.

**CHAPTER 59.****SERICULTURE.**

**An Act to repeal chapter 2, title 59, of the Revised Statutes of Utah, 1898, as amended by the laws of Utah, 1901, relating to sericulture.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Utah Silk Commission abolished.** That chapter 2, title 59, Revised Statutes of Utah, 1898, as amended by chapter 130, laws of Utah, 1901, relating to sericulture, be, and the same is hereby repealed.

**Sec. 3. Property of, disposed of.** That all property now in the hands of the Silk Commission, belonging to the State, be turned over to the Experimental Station of the Agricultural College of Utah, for experimental purposes, and that the balance of cash now in the hands of the commission, be turned over to the State Treasurer.

Section 3. This act shall take effect upon approval.

Approved this 9th day of March, 1905.

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**CHAPTER 60.****FINAL ACCOUNTS AND SETTLEMENT OF ESTATES.**

**An Act to amend section 3952, Revised Statutes of Utah, 1898, relating to final accounts and settlement of estates.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 3952, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**3925. Petition for final account and settlement, when to be presented.** When all debts are paid, or sooner, if before that time all the property of the estate has been sold, or there are sufficient funds in his hands for the payment of all the debts due by the estate, and the estate be in proper condition to be closed, the executor or administrator must render a final account and pray for settlement of his administration. Such petition shall contain the names and addresses of the heirs, devisees or other persons entitled to participate in such distribution, according to the best knowledge, information and belief of the executor or administrator.

The clerk shall file the petition and fix the date of hearing thereon and give the notice provided by law.

Approved this 9th day of March, 1905.

## CHAPTER 61.

## APPROPRIATING \$2500 TO DAVID WILCKEN.

An Act appropriating the sum of \$2500.00 to David Wilcken, for meritorious services rendered the State and for permanent bodily injury sustained.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Appropriation to David Wilcken.** That the sum of \$2500.00 is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to David Wilcken, of Salt Lake County, Utah, for services rendered to the State and for permanent bodily injury sustained in the break made by prisoners at the Utah State Prison on the 9th day of October, 1903, and the State Auditor is hereby authorized and directed, upon the application in writing of the said David Wilcken, together with a written release of all claims and demands in full against the State of Utah for said injuries, to draw his warrant upon the State Treasurer, in favor of the said David Wilcken, for the amount herein specified.

Sec. 2. This act shall take effect upon approval.

Approved this 9th day of March, 1905.

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CHAPTER 62.

## APPROPRIATING \$2500 TO ZEBULON JACOBS.

An Act appropriating the sum of \$2500.00 to Zebulon Jacobs, for services rendered to the State and for permanent bodily injury.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Appropriation to Zebulon Jacobs.** That the sum of \$2500.00 is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, to Zebulon Jacobs, of Salt Lake County, Utah, for services rendered to the State and for permanent bodily injury sustained in the break made by prisoners at the Utah State Prison on the 9th day of October, 1903, and the State Auditor is hereby authorized and directed, upon the application in writing of the said Zebulon Jacobs, together with a written release of all claims and demands in full against the State of Utah for said injuries, to draw his warrant upon the State Treasurer, in favor of the said Zebulon Jacobs, for the amount herein specified.

Sec. 2. This act shall take effect upon approval.

Approved this 9th day of March, 1905.

**CHAPTER 63.****LARCENY.**

**An Act to amend section 4355, Revised Statutes of Utah, 1898, denfing larceny.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 4355, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**4355. Larceny defined.** Larceny is the felonious stealing, taking carrying, leading, or driving away the personal property of another.

Possession of property recently stolen, when the party in possession fails to make a satisfactory explanation, shall be deemed prima facie evidence of guilt.

Approved this 9th day of March, 1905.

**CHAPTER 64.****DUTIES OF COUNTY SUPERINTENDENT.**

**An Act to amend section 1785, Revised Statutes of Utah, 1898, relating to the duties of County Superintendents.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 1785, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**1785. County Superintendent to visit schools.** He shall visit every district school under his supervision within the county at least twice in each school year, and oftener if necessary to increase its usefulness. He shall at such visits carefully observe the condition of the school, the mental and moral instruction given, the methods employed by the teacher, and the progress of the pupils. He shall advise and direct the teachers in regard to the instruction, classification, government, and discipline of the school and prescribe the course of study. He shall keep a record of such visits and by memoranda indicate his judgment of the teacher's ability to teach and govern, and the conditions and progress of the school, which information shall be filed with the State Board of Education and shall be used for or against teachers at the time of their examination for certificates.

Approved this 9th day of March, 1905.

## CHAPTER 65.

## FEES OF SHERIFFS.

An Act to amend section 974, Revised Statutes of Utah, 1898, as amended by chapter 18, laws of Utah, 1899, relating to fees of sheriffs.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 974, Revised Statutes of Utah, 1898, as amended by chapter 18, laws of Utah, 1899, be and the same is hereby amended to read as follows:

974. **Sheriff's fees.** For serving a summons, or summons and complaint, or writ of garnishment, or any other process by which action or proceeding of garnishment, or any other process by which action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, one dollar.

For taking bond or undertaking in any case in which he is authorized to take the same, including justification, seventy-five cents.

For copy of any writ, process, or other paper, when demanded or required by law, for each folio, twenty cents.

For each service of any notice, rule, or order, fifty cents.

For serving a subpoena, for each witness summoned, fifty cents.

For serving an attachment on property, or levying an execution, or executing an order of arrest, or an order for the delivery of personal property, including copies when furnished by plaintiff, two dollars; but no traveling fees shall be allowed on such attachment, order of arrest, or order for the delivery of personal property, when the same accompanies the summons in the suit, and may be executed at the time of the service of the summons, except for the distance actually traveled beyond that required to serve the summons. He shall collect such further amount for his trouble and expense, in taking and keeping possession of and preserving property under attachment or execution or other process, as the Court shall order; *Provided*, that no more than four dollars per diem shall be allowed to a keeper.

For advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, one dollar.

The fees herein allowed for the levy of an execution and for advertising shall be collected from the judgment debtor by virtue of such execution, in the same manner as the sum therein directed to be made.

For drawing and executing a sheriff's deed, inclusive of acknowledgment, two dollars, to be paid by the grantee.

For serving a writ of possession or restitution, or putting any person entitled in possession of premises, and removing occupant, five dollars.

For holding each trial of right of property, to include all services in the matter, except mileage, ten dollars.

For traveling, to be computed from the courthouse, provided that when transmitted by mail, from the post office where received to serve any summons, or summons and complaint, or writ of garnishment, or any other process by which action or proceeding is commenced, or to serve any notice, rule, order, subpoena, venire, or attachment on property, or to levy an execution, or execute an order of sale or of arrest, or order for the delivery of personal property, or writ of possession or restitution, or to hold trial of rights of property for each mile necessarily traveled, in going only, twenty cents.

For taking a prisoner in civil cases from prison before a court or magistrate, for each mile necessarily traveled, in going only, twenty cents.

For taking a prisoner from the place of arrest to prison, in civil cases, or before a court or magistrate, for each mile necessarily traveled, in going only, twenty cents; for each additional prisoner taken at the same time, five cents per mile; *Provided*, that if any two or more papers be required to be served in the same suit or proceeding, at the same time and in the same direction, one mileage only shall be charged; and *provided also*, that in serving a subpoena, when two or more witnesses live in the same direction, traveling fees shall be charged only for the most distant; and *provided further*, that only one mileage per day shall be charged for taking a prisoner from prison before a court or magistrate.

For delivering an insane person at the State Mental Hospital, when payable by private individuals, twenty cents per mile, one way, for the distance from the County Seat of his county to the State Mental Hospital; and for every additional insane person taken at the same time, five cents per mile. If the sheriff shall require assistance, the actual and necessary cost thereof shall be added.

For receiving and paying over money on execution, or other process as follows: If the amount collected does not exceed \$100.00, 3 per cent thereon; if the amount exceeds \$100.00, and is less than \$200.00, 3 per cent on the first \$100.00 and 2 per cent on the balance; if the amount exceeds \$300.00 and is less than \$1000.00, 3 per cent on the first \$100.00, 2 per cent on the second \$100.00, and 1½ per cent on the balance; if the amount collected exceeds \$1000.00, 3 per cent on the first \$100.00, 2 per

cent on the second \$100.00, 1½ per cent on the next \$700.00 and ¾ of one per cent on the balance.

For executing in duplicate a certificate of sale, exclusive of filing the same, one dollar.

Approved this 9th day of March, 1905.

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## CHAPTER 66.

### OUTHOUSES ON SCHOOL GROUNDS.

An Act requiring out-houses on school grounds to be maintained in a sanitary condition.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Outhouses on school grounds to be kept in sanitary condition.** It shall be the duty of the Board of Trustees of each school district in the State to provide all out-houses upon the school grounds, and which are not connected with a sewer system, or cess pool, with the dry earth system of privy vaults and to provide at all times a supply of dry earth in such out-houses sufficient to comply with the requirements of such system and must cause such vaults to be emptied at least once every month and oftener during the school year if in the opinion of the district health officer it is necessary and shall maintain all such out-houses in a sanitary condition.

Approved this 9th day of March, 1905.

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## CHAPTER 67.

### STATE MILITIA.

An Act relating to certain Staff Organizations of the State Militia; the appointment of officers; their qualifications; the composition of the organization and the appointment of company armorers.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Medical department, National Guard.** The medical department of the National Guard of Utah shall be under the control





be selected suitable sites for the construction of reservoirs and to procure by selection, grant, or purchase, the title to the land to be covered by water stored in such reservoirs, and to cause to be constructed suitable reservoirs for the purpose of storing water to be supplied to the State and (other lands), whenever in its judgment the interest of the State would be promoted thereby.

Approved this 9th day of March, 1905.

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## CHAPTER 69.

### SCHOOL ELECTIONS.

An Act to amend sections 1806 and 1809, Revised Statutes of Utah, 1898, relating to School Elections, now called, canvass of votes.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That sections 1806 and 1809, Revised Statutes of Utah, 1898, be, and the same are hereby amended to read as follows:

1806. **School Elections, how called.** Meetings for the election of trustees of district schools and for voting on the rate per cent of taxes to be assessed, and on the question of issuing bonds, shall be called by the trustees causing notices to be posted in at least three public and conspicuous places within the district, at least twenty days before the time for holding such meeting. Such notice shall state the time, place, and object of such meeting and the officers to be elected, and if the polls are to be opened at any such meeting to determine any question, the notice shall state the hours at which the polls will be opened and closed. All business transacted at such meeting other than specified in said notice shall be void. The voting at such meeting shall be by secret ballot.

1809. **Canvass of votes. Ties.** Immediately after the polls are closed, the judges shall proceed to count and canvass the votes cast at such election and the person receiving the highest number of votes for trustee shall be declared elected. All ties shall be decided by lot.

Approved this 9th day of March, 1905.



gether with aptness to teach and govern, as will enable the applicant to teach successfully in the district schools of the State the various branches required by law, said Board of Education shall grant such applicant a certificate of qualification.

**Sec. 2. Certificate of two grades Valid one year.** The county certificates issued by the State Board of Education shall be of two grades, county grammar and county primary, and shall be valid for one year, but may be renewed year by year without examination under such regulations as the Board may provide. No certificate shall be granted unless the applicant be of good moral character and found proficient in pedagogy and qualified to teach the following branches of common English education, namely: reading, writing, spelling, English grammar, geography, United States history, arithmetic, physiology and hygiene, nature studies and drawing. The percentage required to pass in any branch shall be prescribed by the State Board of Education.

**Sec. 3. Temporary certificates.** In addition to the regular grades of certificates, the State Board of Education may grant a temporary certificate, valid until the next regular examination, but in no case shall such certificate be granted to the same person more than once; *provided*, that special certificates may be issued for one year by the Board of Education to teachers of special branches; *provided*, however, that nothing herein contained shall prohibit any county superintendent or any district Board of Trustees from employing a teacher temporarily, *provided* that such teacher shall have made application to the State Board of Education for a certificate and pending action by said Board on such application. *See No 1*

**Sec. 4. County Certificates, where valid.** No county certificate to teach shall be granted to any person under eighteen years of age. The certificates issued by the State Board of Education shall be valid in any county of the State.

**Sec. 5. Teacher must hold certificate. Revocation.** No person shall be employed or be permitted to teach in any of the district schools of the State who is not the holder of a lawful certificate of qualification. Any contract made in violation of this section shall be void. The State Board of Education is authorized and required to revoke, for immoral or unprofessional conduct, or in case of unmistakable evidence of serious infectious or hereditary disease, or evident unfitness for teaching, any certificate granted by it, after the holder thereof shall have been given an opportunity of being heard.

**Sec. 6. Penalty for disclosing prepared questions.** Any person having charge of the examination or any employee of the Board of Education, who shall, directly or indirectly, disclose any questions prepared for the examination, shall be deemed guilty of a misdemeanor,

and upon conviction thereof shall be fined in any sum not less than one hundred nor more than five hundred dollars.

**Sec. 7. Board may employ assistants. Compensation.** The State Board of Education may call to its aid, in the preparation of questions for county teachers' examinations and in grading the papers of the applicants for certificates such assistance as it may deem proper. Persons employed by the Board to assist in preparing questions and grading papers shall be entitled to necessary traveling expenses and shall receive four dollars per day for time actually and necessarily spent in the performance of their duties; *Provided*, that no such employee of the Board receiving a salary from the State or any sub-division thereof shall receive any such per diem. The expenses incurred in the county teachers' examination shall be paid from the State school fund.

Section 8. Sections 1794, 1795, 1796, 1797 and 1798, Revised Statutes of Utah, 1898, and all acts amendatory thereto and all acts and parts of acts in conflict herewith are hereby repealed.

Approved this 9th day of March, 1905.

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## CHAPTER 72.

### DUTIES OF TEACHERS.

**An Act to amend section 1844, Revised Statutes of Utah, 1898, relating to the duties of teachers.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 1844, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**1844. Teachers to attend teachers' institute.** Each teacher who is engaged in teaching during a period which includes the time of holding a teachers' institute, upon receiving notice from the county superintendent to attend, shall close his school during the holding of such institute and attend the same, and shall be paid by the school board of the district the regular salary as teacher for the time of attendance during such institute, as certified by the county superintendent. The certificate of any teacher may be revoked by the State Board of Education, when upon due examination and inquiry and after the holder thereof shall have been given an opportunity of being heard, it appears that he is guilty of inexcusable neglect or refusal to attend a teachers' institute held for such county.

Approved this 9th day of March, 1905.

## CHAPTER 73.

## COUNTY CLERK'S FEES.

An Act to amend section 972, Revised Statutes of Utah, 1898, relating to the fees of clerks of the district courts and county clerks.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. Section 972, Revised Statutes of Utah, 1898, is hereby amended to read as follows:

972. **Clerk of the District Court.** For all services performed by him in any action or proceeding (except a probate or guardianship proceeding), seven dollars, to be collected in advance from the party commencing the action; *provided*, that in cases where an injunction or an attachment or a receiver is asked for, an additional advance fee of two dollars and fifty cents shall be collected.

For all services in an action for divorce in which judgment is entered upon default, five dollars.

For filing cross complaint, counter claim or complaint in intervention, two dollars and fifty cents.

For entering judgment by confession, three dollars.

For services performed in an action appealed from a justice's court, five dollars.

For filing and indexing papers on transfer of a cause from the District Court of another county, two dollars and fifty cents.

For transmission of files and papers on the granting of change of venue to the District court of another county or to the United States Court, exclusive of express charges or postage, two dollars and fifty cents.

For issuing a commission to take testimony, seventy-five cents.

For filing notice and undertaking and all services, including indexing on appeal to the Supreme Court, three dollars and fifty cents.

For all services after judgment, pending appeal to the Supreme Court (not including the making of copies), two dollars and fifty cents, to be paid by the party moving for a new trial or to set aside judgment.

For services performed in proceedings to perpetuate testimony, one dollar.

For services performed in an adoption case, five dollars.

For certificates of dismissal of appeal, when prepared by the

clerk, two dollars and fifty cents; and when prepared and furnished by the attorney, one dollar.

For certifying transcript on appeal and exemplification of record, two cents per folio.

For filing remittitur from Supreme Court, one dollar, and for recording judgment entered thereon, ten cents per folio.

For filing abstract of judgment from justice's court, including docketing the same, one dollar.

For issuing execution or order of sale, one dollar and for copying decree and return, ten cents per folio.

For filing any papers in any cause after judgment, not otherwise provided for, twenty-five cents.

For issuing transcript of judgment and certifying thereto, one dollar.

For taking and certifying depositions, for each folio twenty cents, besides four dollars for each day's attendance.

For declaration of intention to become a citizen of the United States, two dollars.

For final citizenship certificates, three dollars.

For services in probate and guardianship proceedings up to and including the final settlement of the case, in which the value of the estate does not exceed twenty-five hundred dollars, ten dollars.

For services in probate and guardianship proceedings up to and including the final settlement of the case in which the value of the estate exceeds twenty-five hundred dollars, and does not exceed five thousand dollars, except as hereinafter provided, twenty dollars.

For filing petition for letters testamentary, or of administration or guardianship, in any one case (two dollars) to be paid upon the filing of such petition.

For services in probate and guardianship proceedings up to and including the final settlement of the case in which the value of the estate exceeds five thousand dollars and does not exceed ten thousand dollars, except as hereinafter provided, thirty-five dollars.

For services in probate and guardianship proceedings up to and including the final settlement of the case in which the value of the estate exceeds ten thousand dollars and does not exceed twenty thousand dollars, except as hereinafter provided, fifty dollars.

For services in probate and guardianship proceedings up to and in-

cluding the final settlement of the case in which the value of the estate exceeds twenty thousand dollars and does not exceed fifty thousand dollars, except as hereinafter provided, seventy-five dollars; and in cases where the value of the estate exceeds fifty thousand dollars, the clerk shall receive two dollars additional fees for each one thousand dollars' valuation.

For making copies in all probate and guardianship proceedings, ten cents per folio, and each certificate thereto, twenty-five cents.

The valuation herein mentioned shall be ascertained from the inventory filed, and the fees herein provided shall be collected at the time of filing such inventory.

For filing objections or cross-petitions to the appointment of an executor, administrator or guardian, or objections to settlement of accounts or any other proceedings in an estate or guardianship matter, five dollars to be paid by moving party.

For any assignment for the benefit of creditors, the fees to be collected shall be the same in amount as fees collected in probate actions; that is to say, two dollars, upon the filing of the deed of assignment and such sum upon the filing of the inventory, as would have been required to be paid in a probate action for filing such an inventory.

For all services not herein enumerated, a reasonable compensation, to be fixed by the judge of the District Court.

Clerk of the District Court and County Clerk. For administering and certifying oaths, except oaths administered at the trial of any cause, twenty-five cents.

For making copies of papers, records, and files in his office, ten cents per folio, and for each certificate thereto, twenty-five cents.

For recording papers or documents other than those provided for, per folio, ten cents.

For taking justification of sureties, each surety, twenty-five cents; and for taking and filing testimony thereon, twenty-five cents per folio.

For searching the files and records, one dollar per hour.

For taking and certifying acknowledgement, fifty cents for one name; for each additional name, twenty-five cents.

For certifying to the official character of any official person, one dollar.

For certifying to the official character of a notary public or a justice of the peace, fifty cents.

**County Clerk.** For receiving and forwarding to the State recorder of marks and brands any application for a recorded mark or brand, fifty cents.

For filing and indexing articles of incorporation, two dollars and fifty cents.

For filing and indexing amendments to articles of incorporation, one dollar and fifty cents.

For filing and indexing articles of incorporation of corporations not formed for pecuniary profit, one dollar.

For furnishing certified copy of articles of incorporation of corporations not formed for pecuniary profits, two dollars.

For filing and approving bonds or oath of officers of corporations, fifty cents.

For recording articles of incorporation, twenty cents per folio.

For filing and registering dental certificates, one dollar.

For filing and indexing certificate of co-partnership, one dollar.

For issuing and recording marriage license, two dollars and fifty cents.

For filing any bond or other instrument required by law to be filed in his office, other than the bond of a public officer or one pertaining to a case in court, fifty cents.

For scaling weights and measures, as follows: For each examination, testing, sealing and certifying as required from the owner of the same, to-wit: For any steelyards, beam, ground, floor, platform, counter, or other scales, by which may be weighed not exceeding one hundred pounds, seventy-five cents.

For any such instrument by which may be weighed over one hundred pounds, and less than six hundred pounds, one dollar.

Over six hundred pounds, one dollar and fifty cents.

For any nests or sets of measures, seventy-five cents.

For any yard stick, dry or liquid measure, twenty-five cents.

And the weights attached to any scales shall, as to the compensation of the scaler of weights and measures, be considered as part of the scales, *provided*, that where any such weight, measures, or instruments, upon subsequent examination, be found correct and shall not require to be stamped a second time, the aforesaid scaler of weights and measures shall not receive more than one-half the compensation provided for.



The county clerk in counties of the first and second class shall examine and test the before-mentioned instruments for weighing or measuring, provided that in all other counties, he shall on application by any person who shall tender him the fee which he is hereinbefore authorized to receive, and he shall, in every case where he may employ labor or material in making accurate weights or measures, be entitled to extra compensation therefor, and to retain the article upon which such labor or material has been employed, until such compensation be paid.

Sec. 2. This act shall take effect upon approval.

Approved this 9th day of March, 1905.

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## CHAPTER 74.

### SPECIAL TAXES IN CITIES.

**An Act amending section 264, Revised Statutes of Utah, 1898, relating to special taxes in cities, errors in proceedings concerning such special taxes and actions to recover such taxes paid under protest, by adding provisions thereto relating to re-levy of such special taxes after former levy is annulled, and validating special taxes heretofore levied and proceedings relating thereto.**

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 264, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**264. Errors not to void tax. Action to recover. Certain special taxes confirmed.** No such special tax shall be declared void, nor shall any such assessment or part thereof, be set aside in consequence of any error or irregularity committed or appearing in any of the proceedings under this chapter; but any party feeling aggrieved by any such special tax, assessment or proceeding may pay the said special taxes assessed or levied upon his property, or such installments thereof as may be due, at any time before the same shall become delinquent, under protest, and with notice in writing to the City Treasurer that he intends to sue to recover the same, which notice shall particularly state the alleged grievance and grounds thereof, whereupon such party shall have the right to bring civil action within sixty days thereafter, and not later, to recover so much of the special taxes paid as he shall show to be illegal, inequitable, and unjust, the cost to follow the judgment to be apportioned by the court as may seem proper, which remedy shall be exclusive. The City Treasurer shall promptly report all such notices to the

City Council for such action as may be proper. No court shall entertain any complaint that the party was authorized to make, and did not make, to the City Council sitting as a Board of Equalization nor any complaint not specified in said notice fully enough to advise the city of the exact nature thereof; nor any complaint that does not go to the ground-work, equity, and justice of the tax. The burden of proof to show such tax or part thereof invalid, inequitable, or unjust, shall rest upon the party who brings such suit. And in any instance where such special tax or any assessment or any of either, for any step or proceeding affecting or concerning the same is annulled, set aside or declared void either in whole or in part, by any court or in any proceeding whatsoever, at any time after a contract for the improvement to be paid for by said special tax is let or entered into, or at any time after work on such improvement has begun, the City Council may by ordinance make a new levy of such tax to the same amount and extent as such original tax was declared invalid or was annulled, whether such tax was held void for jurisdictional or other defects or irregularities. No notice of such ordinance need be given, and no protest against the same need be considered. All special taxes heretofore levied or attempted to be levied in cities, which have not heretofore been adjudicated void, and all notices, assessments, equalizations and proceedings taken in relation thereto, whether void, defective or valid, in all cases where the improvements contemplated thereby have been made or contracted for, are hereby confirmed, validated and made sufficient to the same extent as if the same were perfect in the first instance.

*Sec. 2.* This act shall take effect upon approval.

Approved this 9th day of March, 1905.

## CHAPTER 75

### LOAN ASSOCIATIONS BECOMING SOLE SURETY.

An Act to amend section 425, Revised Statutes of Utah, 1898, relating to loan, trust and guaranty associations becoming sole surety.

*Be it enacted by the Legislature of the State of Utah:*

*SECTION 1.* That section 425, Revised Statutes of Utah, 1898, be, and the same is hereby amended so as to read as follows:

**425. Approval of as surety. Secretary of State may issue certificate.** Nothing in this chapter shall be so construed as to dispense with the approval of such loan, trust and guaranty association as sole se-

curity by such court, officer, corporation, or individual, as is or may be by a law required to approve such security, *provided*, however, that upon production of proof to the Secretary of State by such company, organized under the provisions of chapter 6, Revised Statutes of Utah, 1898, that it possesses the qualifications by said chapter required, and that it has complied therewith, he shall issue to such company his certificate that it is authorized for the ensuing year to become and be accepted as sole surety on all bonds, undertakings and obligations provided for in said chapter; and that such certificate during the period for which it is issued, unless the same shall be cancelled as hereinafter provided, shall be accepted by all the courts or officers authorized to take, or before whom sureties are required to justify upon exception to said company's sufficiency as a complete justification; *provided further*, that the Secretary of State at any time after the issuance of such certificate and during the period for which such certificate is issued, when it shall appear to him that any such company has become insolvent and is not entitled to do business as such, shall cancel such certificate and refuse further to allow such company to transact such business.

Approved this 9th day of March, 1905.

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## CHAPTER 76.

### REAL ESTATE HELD BY COUNTY UNDER TAX DEEDS.

An Act amending section 2655, Revised Statutes of Utah, 1898, relating to real estate held by any county under tax deeds to it and the manner of disposing of same.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2655, Revised Statutes of Utah, 1898, be and the same is amended to read as follows:

2655. Real estate deeded to county to be sold at auction. Whenever a county has received a tax deed for any real estate sold for delinquent taxes, the board of county commissioners, shall, during the month of May in each year, after giving the statutory notice, offer for sale at the front door of the county court house, at the time specified in the notice, all such real property not heretofore sold or redeemed. *Provided*, that in cases where the description of such real estate is so defective as to convey no title, such real estate shall not be so offered. The County Clerk is authorized to execute deeds therefor in the

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shall contain a description sufficient for identification, of the particular lot, part of lot or parcel of land against which it is issued, and also give the block and plat in which the same is situate, and shall also state the amount of the special tax or assessment levied thereon, the date and purpose of such levy and the name of the person supposed to be owner of the land taxed or assessed and shall further state the date or dates on which said special tax or assessment or the several installments thereof shall be delinquent, and also the interest payable on the same both before and after delinquency, which interest shall be provided for in the ordinance levying such tax or assessment, and shall further state that all interest on said certificate or any installment mentioned therein shall cease when such tax or such installment is paid to the treasurer. No special tax or assessment or any installment thereof shall draw a greater rate of interest than six per cent per annum from date of levy until date of delinquency, nor a greater rate than eight per cent per annum from delinquency until paid.

**Sec. 3. Redemption of scrip.** Any owner or agent or person interested in any lot or parcel of land against which any scrip may have been issued as aforesaid for any special tax or assessment, may pay said tax or assessment or any installment thereof, with interest, to the city treasurer at any time after levy of such special tax or assessment, and thereupon the interest upon the amount so paid ceases and the scrip standing against said land is thereby canceled and redeemed to the extent of such payment, and the lien of such scrip against said land is thereby cancelled to the extent of such payment, and it becomes the duty of the record holder of said scrip upon being notified by mail by the city treasurer to present such scrip to said treasurer and receive the amount paid thereon. Whenever any payment upon any scrip is made by the treasurer he shall stamp or write a description of the said partial payment and date thereof on said scrip and keep a record of the same in his office, and whenever a complete redemption of such scrip is made, he shall write or stamp a statement of the date when said tax was paid and when such scrip was presented on such scrip and file the same in his office.

**Sec. 4. Scrip a lien on property therein described. Property may be sold.** All scrip issued hereunder shall be a lien against the property described therein from the date of the levy of the special tax or assessment for which the said scrip was issued, and at any time after delinquency of the last installment the property described in such scrip shall be sold by the city treasurer, as agent for the holder of such scrip in the same manner as provided by law or ordinance for the sale of land for delinquent special taxes to make the sum delinquent on said scrip and the costs and expenses of such sale. After the issue of

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CHAPTER 15.

REPORT OF STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

An Act to amend sections 1778 and 1781, Revised Statutes of Utah, 1898, relating to the biennial report of the State Superintendent of Public Instruction; and calling for attendance upon certain officers.

Be it enacted by the Legislature of the State of Utah:

Section 1. That sections 1778 and 1781, Revised statutes of Utah, 1898, and the same are hereby amended to read as follows:

1778. **Biennial Report of State Superintendent.** On or before the first day of January preceding each biennial session of the Legislature, the State Superintendent shall present to the Governor a report of his administration of the system of public instruction. There shall be printed at least one thousand copies of his report and laws relating to the schools, which shall be distributed under his direction. The superintendent in his report shall furnish a brief exhibit:

1st. Of his labors, results of his experience and observations as to the operation of the public school system, and suggestions as to the remedy for imperfections.

2d. Of the amount of school revenue and its general condition as to sufficiency or insufficiency.

3rd. Of such plans as he may have matured for the better organization of the schools, and for the increase and economical expenditure of the school revenue.

4th. A full statement of the condition and amount of all funds and property appropriated for educational purposes; the number and grade of schools in each county, and in each city of the first and of the second class; the number of children between the ages of six and eighteen years in each county and in each city of the first and of the second class, with the number of such attending district schools, the average number of

children that have attended district schools during the two years previous to July 1st of that year, the number that can read and write, the amount of school money raised by county taxation or otherwise, the amount expended for salaries of teachers and for building school houses.

5th. A comparison of the results of the two years then closing, with those of the two years preceding, indicating the progress of public instruction, and, as far as can be ascertained, the number and condition of private schools, academies and colleges in the State.

1781. The State Superintendent shall have power to call annually a convention of the county and city superintendents, to assemble at such time and place as he shall deem most convenient, for the discussion of questions pertaining to the supervision and administration of public schools, the laws relating thereto, and such other subjects affecting the welfare and interest of the public schools as shall properly be brought before it. It is hereby made the duty of all county and city superintendents to attend such conventions when called. The actual traveling expenses of county superintendents for attending such conventions shall be allowed by the board of county commissioners and paid out of the same fund as the salaries of county superintendents. The actual traveling expenses of city superintendents attending such conventions shall be allowed and paid out of the same fund as salaries of city superintendents.

Approved this 9th day of March, 1905.

## CHAPTER 79.

### REPORT OF BANKING CORPORATIONS.

An Act amending section 388, Revised Statutes of Utah, 1898, relating to the making of reports to the Secretary of State by banking corporations and private bankers and providing for the publication thereof.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 388, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

388. **Bankreports. Nature. Publication.** Every banking corporation or private banker, domestic or foreign, transacting a banking business in this State, shall make to the Secretary of State not less than four reports





CHAPTER 81.

SALARIES OF COUNTY OFFICERS.

An Act to amend section 2057, Revised Statutes of Utah, 1898, as amended by chapter 71, laws of Utah, 1899, relating to regulating the salaries of county officers.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2057, Revised Statutes of Utah, 1898, as amended by chapter 71, laws of Utah, 1899, be, and the same is hereby amended to read as follows:

2057. Salaries of County Officers. The salaries of the officers of all counties in the State shall be fixed by the respective Boards of County Commissioners at not to exceed the following maximum amounts: *Provided*, that should the respective Boards of County Commissioners, or any of them fail to fix the salary of any of the county officers, as provided for in this act, the salary of the predecessor of said officer or officers whose salary has not been fixed, shall apply.

	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9	Class 10	Class 11	Class 12	Class 13	Class 14	Class 15
Commissioners, each.	\$1500	\$ 700	\$ 600	\$ 500	\$ 500	\$ 450	\$ 450	\$ 450	\$ 300	\$ 300	\$ 200	\$ 200	\$140	\$100	\$100
Sheriff	3000	1800	1500	1500	1400	1300	1300	1300	1250	1250	1200	1200	800	750	400
Assessor	1800	1800	1000	1000	900	850	800	800	750	750	750	750	600	400	300
Clerk	2400	1800	1500	1500	1400	1300	1300	1300	1300	1000	1200	1000	800	750	500
Recorder	2000	1800	1500	1500	1150	1100	1050	1000	1200	1000	1200	900	750	550	400
Treasurer	2500	1800	1500	1500	1400	1300	1300	1300	1000	900	800	800	600	500	250
Attorney	2500	1800	1500	1500	1100	1000	1000	1000	800	800	700	600	500	400	300
Supt. of Schools	1600	1200	1200	1000	1000	1000	1000	1000	1000	1000	1000	1000	750	500	500
Surveyor	1200	1000	1000	500	450	400	350	350	350	350	350	350	350	350	350
Auditor	1800														

Approved this 9th day of March, 1905.

## CHAPTER 82.

## TIME WHEN FISCAL YEAR COMMENCES.

An Act amending section 2592 of the Revised Statutes of Utah, 1898, fixing time when fiscal year commences.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2592 of the Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

2592. **Fiscal year of State.** The fiscal year of the State of Utah commences on the first day of December, of each year.

Approved this 9th day of March, 1905.

## CHAPTER 83.

## POWERS AND DUTIES OF TRUSTEES.

An Act to amend section 1815, Revised Statutes of Utah, 1898, as amended by chapter 37, laws of Utah, 1901, relating to powers and duties of trustees.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 1815 Revised Statutes of Utah, 1898, as amended by chapter 37, laws of Utah, 1901, be and the same is hereby amended to read as follows:

1815. **School Board to have general control.** The school district board shall have general charge, direction, and management of the schools of the district, and the care, custody, and control of all property belonging to the district, subject to the provisions of the law. It may annually order to be raised on the taxable property of the district, not to exceed  $\frac{3}{4}$  of one per cent for the support of schools, to defray current expenses, and for the purchase of text books; additional funds may be raised for such purposes by vote of the qualified voters as provided by law.

Approved this 9th day of March, 1905.

amended ch 82-01

## CHAPTER 84.

### PRACTICE OF DENTISTRY.

**An Act to amend sections 753, 754 and 757 of the Revised Statutes of Utah, 1898, as amended by chapter 79, laws of Utah, 1903, relating to the practice of dentistry; and defining the practice of dentistry, providing for the revocation of license, and providing for the punishment of associations or companies practicing dentistry, unless the same conform to the requirements of this act.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That sections 753, 754 and 757 of the Revised Statutes of Utah, 1898, as amended by chapter 79, laws of Utah, 1903, be and the same are hereby amended to read as follows:

**753. Examination for certificates.** Any person not having a certificate of the Board of Dental Examiners who shall desire to begin the practice of dentistry in this State, shall appear before the Board of Examiners at any of its regular meetings. To be eligible for such examination the applicant shall give satisfactory evidence of having practiced dentistry for at least two years; or of having been a bona fide student for at least three years under the immediate supervision of a licensed dentist; or shall present a diploma, or certified copy thereof of a reputable dental college recognized by the National Association of Dental Examiners. The examination shall be elementary and practical in character, but sufficiently thorough to test the ability of the applicant to practice dentistry, and shall include anatomy, physiology, chemistry, dental medicine, metallurgy, histology, pathology, operative surgical and mechanical dentistry, and also demonstrations in operative and mechanical dentistry.

**754. Issue of certificate.** If the examination shall prove satisfactory to the Board of Dental Examiners, it shall issue a certificate of registration to the person examined. All certificates issued by said Board shall be signed by the president and secretary, and shall have the seal of the Board attached thereto.

**757. Fees. Expenses of Board. Secretary's salary. Report.** In order to provide means for carrying out and maintaining the provisions of this title, the Board of Dental Examiners shall charge each person applying to or appearing before it for a certificate of registration, or interchange certificate, the sum of twenty-five dollars, twenty dollars of which shall be returned in case of failure of applicant to pass such examination. Out of the funds coming into the possession of the Board, all legitimate and necessary expenses of the Board, including such expenses of the members thereof incurred in attending the meetings thereof, and an annual salary of twenty-five dollars shall be paid to the secretary. No part of the expenses of the Board shall be paid out

of the State Treasury. For the safe keeping of the funds of said Board, the secretary shall give such bond as the Board shall require. On or before the first day of December of each year the Board shall make to the Governor a report of its proceedings during the year, itemizing in such report all receipts and disbursements.

**Sec. 2. "Dentist" defined.** Any and all persons shall be understood to be practicing dentistry within the meaning of this act, who shall for a fee, salary or reward, paid directly or indirectly, either to himself or some other person, perform operations of any kind upon, or treat diseased lesions of the human teeth or jaws, or correct malimposed positions thereof, or display a sign, or in any way advertise himself as a dentist; and such performance shall be taken and considered in the trial of any indictment which may be found for the violation of any of the provisions of this act, as prima facie evidence. But nothing in this act shall prohibit an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory, or the student of a licentiate from assisting his preceptor in dental operations while in the presence of and under the personal supervision of his instructor or a duly licensed physician from treating diseases of the mouth or performing operations in oral surgery. And nothing in the provisions of this act shall be construed to permit the performance of dental operations by any unlicensed persons under cover of the name of a regular practitioner of dentistry.

**Sec. 3. License on certificate from another State.** Any dentist who has been in legal practice for five years or more, and is a reputable dentist of good moral character, and who is desirous of making a change of residence into another State, may apply to the Examining Board of the State in which he resides for a new certificate, which shall attest to his moral character and professional attainments, and said certificate, if granted, shall be deposited with the Examining Board of the State in which he proposes to reside, and the said Board, in exchange thereof, may grant him a license to practice dentistry.

**Sec. 4. Board may revoke license. Cause.** Any dentist may have his license revoked or suspended by the Board of Dental Examiners for any of the following causes:

1. His conviction of a felony or misdemeanor involving moral turpitude in which case the record of conviction or a certified copy thereof, certified by the clerk of the court, or the judge in whose court the conviction is had, shall be conclusive evidence.

2. For unprofessional conduct, such as obtaining any fee by fraud or misrepresentation. Employing directly or indirectly any student or any suspended or unlicensed dentist to perform operations of any kind or to treat lesions of the human teeth or jaws, or correct mal-

imposed formations thereof. Except as heretofore provided in section 2. The advertising of dental business or treatment or devices in which untruthful, improbable or impossible statements are made, or habitual intemperance or gross immorality.

Sec. 5. In case of a company list of employees must be posted. That hereafter if any association or company of persons, whether incorporated or not, shall engage in the practice of dentistry under the name of company, association, or any other title, the said company, or association, shall cause to be displayed and kept in a conspicuous place at the entrance of its place of business, the name of each and every person employed in said company or association in the practice of dentistry, and any employed by said company or association whose names shall not be displayed as above provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as hereinafter provided, and the said association or company, if incorporated, or the persons comprising the same, if not incorporated, shall for the failure to display the aforesaid names, be guilty of a misdemeanor.

Approved this 9th day of March, 1905.

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## CHAPTER 85.

### VOTING MACHINES.

An Act creating a State Commission on voting or balloting machines, defining their powers, and providing for the use at the option of any board of county commissioners, or city council of voting or balloting machines for receiving and registering the vote in one or more election districts of any county, city or town at any or all elections held therein, and for ascertaining the result at such elections; and providing for the punishment of all violations of the provisions of this act.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. Commission on voting machines established. Duties. The Governor, Secretary of State and Attorney General, and their successors in office, are hereby created and constituted the State Commission on voting or balloting machines. It shall be the duty of said commissioners to examine all voting or balloting machines which may be offered for their inspection in order to determine whether such machines comply with the requirements of this act, and can safely be used by voters at elections under the provisions of this act; and no machine or machines shall be provided by the board of county commissioners or city council, or other board having charge and control of elections in

... of the ... and ... of the State, unless the said ma-  
chine ... of the majority of ...

**Section 1. Commission to report on machines.** ... approved ma-  
chine ... use at ... of this ... of ... within ... Secretary ... approving ... commissioners ... of elections ... of the ... shall ... for ... of State.

**Section 2. Approval ninety days before election.** ... received ... to any ...

**Section 3. County if any authorities may use voting machines.** The ... having ... towns ... meeting ... of ... the vote ... respectively, or ... having ... city ... in each ... and ... all elections ... in one of ... machine ... all elections, and ... determined ... to be ... of the State, or ... thereof for ... and required, and

also in voting upon all amendments to the Constitution, and upon all laws or propositions or questions which may be lawfully submitted to such voters, and for receiving and registering the votes cast at any and every election.

**Sec. 5. City and County may jointly own machines.** In purchasing the necessary voting or balloting machines to be used at elections as herein provided, the boards of county commissioners or city councils of the several counties, cities or towns, may by agreement entered into by said board of county commissioners and the city council of any incorporated city or town in such county, provide for the joint purchase and subsequent ownership thereof, and for the care, maintenance and use of the same. do

**Sec. 6. Requirements of voting machine.** No voting or balloting machines shall be approved by the said Commission hereinbefore referred to unless the same be so constructed as to provide facilities for voting for the candidates of as many different parties or organizations as may make nominations for office, and for and against as many different propositions or amendments as may be submitted; nor shall any such machine be approved unless the same will permit a voter to vote for any person for any office; it must enable the voter to vote and select a ticket all from the nominees of one party, or a ticket selected in part from the nominees of one party, and in part from the nominees of any or all other parties, and in part from independent nominations, or in part or in whole of the names of persons not nominated by any party, or upon any independent ticket. Such machines must also secure to the voter privacy and secrecy in the act of voting. Such machines must also be so constructed that a voter cannot vote for a candidate or a proposition or amendment for whom or on which he is not lawfully entitled to vote, also to prevent voting for more than one person for the same office, in which event they must enable the voter to vote for as many persons for that office as he is by law entitled to vote, and no more; they must also prevent his voting more than once for the same person for the same office; and allow of his reversing his vote in case of mistake or desire to change; and such machines must be so constructed that all votes cast for any person voted for, or for or against any proposition or amendment submitted to the voters shall be accurately registered or recorded; and any machine to be approved by said Commission hereinbefore referred to must be of such kind, style or pattern as will permit the exercise of each voter of the full right and privilege of his elective franchise under the Constitution and laws of this State.

**Sec. 7. County and city authorities to provide and care for machines.** The board of county commissioners or city council, or other board having charge and control of elections adopting a voting or balloting machine shall, as soon as practicable thereafter, provide for such

polling place or places as they may determine, one or more voting machines in complete working order and also such other accessories as may be required for the practical working of the machine and shall thereafter preserve and keep the machines in repair, and shall have the custody of the furniture and equipment. If it shall be impracticable to supply each and every election district with a voting or balloting machine or machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election districts or precincts within the county, city or town as the board having control may direct.

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**Sec. 8. Stationery and instructions.** All necessary stationery and instructions to voters shall be delivered to the judges of election of each election district not later than twenty-four hours next preceding the election.

**Sec. 9. Tally lists.** Tally lists shall be so prepared that the results of such election may be clearly and accurately set forth and certified to by the judges of election.

*14*  
**Sec. 10. Duties of election judges.** The judges of election of each election district shall meet at the polling place therein at least one hour before the time set for the opening of the polls at each election, and shall proceed to arrange within the guard-rail the furniture, stationery, and voting or balloting machine, for the conduct of such election. The judges of the election shall then and there have the voting or balloting machine, instructions to voters, and stationery, required to be delivered to them for such election. The judges of election shall thereupon cause at least two instruction cards to be posted conspicuously within the polling place. If not previously done, they shall adjust the voting or balloting machine so as to record and register the votes to be cast at such election, and adjust the registering and recording device of such machine so as to start at zero, and the same shall be subject to the inspection of the public before the opening of the polls.

*15*  
**Sec. 11. Voting machine to be in plain view.** The exterior of the voting or balloting machine and every part of the polling place shall be in plain view of the election officers, and public. The voting or balloting machines shall be placed at least three feet from every wall and partition of the polling place, and at least three feet from the guard-rail. A guard-rail shall be constructed at least three feet from the machine, with openings to admit electors, or officers of election to and from the machine.

*16*  
**Sec. 12. Voting to be secret. Voter only allowed two minutes.** After the opening of the polls, the judges of the election shall not allow any voter to pass within the guard-rail until they ascertain that he is entitled to vote. The operation of voting by an elector while



voting shall be secret and obscured from all other persons, except as provided in cases of voting by assisting electors. No voter shall remain within the voting or balloting machine booth longer than two minutes, and if he shall refuse to leave it after the lapse of two minutes, he may be removed by the judges of election.

**Sec. 13. Judges to ascertain and declare result of election.** As soon as the polls of the election are closed, the judges of the election thereat shall immediately lock the voting or balloting machine against voting, and, in the presence and full view of the public who may be lawfully within the polling place, proceed to demonstrate and declare the result of such election as registered or recorded or received by the machine. As such result is so ascertained and declared, the judges of the election shall record it, and if found to be correct shall at once announce the same, enter it upon the tally sheet, and thereupon make returns of the election at such district, as provided by law. *den*

**Sec. 14. Record to be preserved six months. Exception.** The judges of the election shall, as soon as the result is fully ascertained and declared, as in the preceding section required, lock the machine so that the record of each election shall be preserved for a period of six months following such election, except in cases where the machine is required for use in a subsequent election during such period, in which case the board of county commissioners, city council, or other board having charge and control of the election shall inspect the registering or recording and receiving device of the machines, and file a report of said inspection with the county clerk. Said report of said board of county commissioners or city council, when so certified and filed shall be prima facie evidence of the vote at such election. Any supplementary or duplicate record of an election, which may be furnished by a machine, shall be preserved by the county clerk for one year following such election.

**Sec. 15. Misconduct at elections.** The provisions of the law relating to misconduct at elections shall apply to elections with voting or balloting machines.

**Sec. 16. Election districts, how created.** For any election in any county, city or town, in which voting or balloting machines are to be used, the election districts in which such machines are to be used may be created by the officers charged with the duty of creating election districts, provided such is done ninety days prior to the approaching election so as to contain not to exceed six hundred votes each.

**Sec. 17. Ballot defined.** The list of candidates used or to be used on the voting or balloting machine shall be deemed an official ballot under this act, for an election district, in which a voting or balloting machine is used pursuant to law. The word "Ballot" as used in this act

means that portion of the card board or paper or other material within the ballot frames, containing the names of the candidates for office, or a statement of a proposed Constitutional amendment, or other question or proposition with the word "for" or the word "against," or "yes" or "no."

**Sec. 18. Provisions of general election laws applies where voting machines used.** The provisions of title 18, Revised Statutes of Utah, 1898, and all laws supplementary thereto or amendatory thereof in so far as they are applicable, shall apply where voting or balloting machines are used, as in this act provided.

**Sec. 19. Id.** All laws and parts of laws of this State relating to elections, and prescribing the powers and duties of election officers, shall, so far as applicable to the use of voting or balloting machines, remain in full force and effect; and all laws and parts of laws inconsistent herewith shall not be applicable in each county, city or town, or any election district thereof, wherein such voting or balloting machine or machines shall be used therein, and nothing in this act contained shall be construed as repealing any existing law or authorizing any deviations or omission therefrom, except as provided for or set forth herein.

**Sec. 20. Penalty.** Any willful violation of any provision of this act, or any willful injury to any voting or balloting machine, tending to injure its effectiveness, or to change the true expression given by the voters at any election shall be a felony and shall be punishable as such.

Approved this 9th day of March, 1905.

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## CHAPTER 86.

### MEDALS FOR INDIAN WAR VETERANS.

**An Act providing for a Medal of Honor for each of the Indian War veterans for actual service in suppressing Indian hostilities in Utah, during the years 1850 to 1872 inclusive.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Medal for Indian War Veterans.** The Governor and the Secretary of State are hereby authorized to procure a medal for each of the veterans of the Indian Wars who actually served in suppressing Indian hostilities in Utah during the years 1850 to 1872 inclusive.

**Sec. 2. Design of.** The design of said medal shall be such as may be determined upon by the Governor and the Secretary of State and

shall be made of bronze and shall be attached to and suspended by a red, white and blue ribbon. Upon the back of each medal shall be inscribed the name of the veteran entitled to receive it. When completed and at such times as may be deemed expedient, and after the presentation of proper evidence and proof of actual service in suppressing Indian hostilities between the years 1850 and 1872 inclusive, by each claimant to the Governor and the Secretary of State, a medal shall be presented to each of said Indian War veterans, or in case of his death, then to his nearest relative.

**Sec. 3. Appropriation for.** For the purposes of this act there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of five hundred dollars, or so much thereof as may be necessary, to be disbursed upon the warrant of the State Auditor when duly authorized by the State Board of Examiners.

Approved this 9th day of March, 1905.

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## CHAPTER 87.

### MAKING CITY, TOWN, ETC., LIABLE WITH CONTRACTOR.

An Act making any city, town, village or school district liable jointly with the principal contractor upon public works, in actions instituted by sub-contractor or material men against such principal contractor.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. County, city, town or school district jointly liable with principal contractor.** Any person, partnership or corporation who has done work or labor or furnished materials to any principal contractor for the construction or repair of any public work of any character for any county, town, city, village or school district, may maintain an action therefor in the county in which such work, labor or materials were done or furnished against such principal contractor and such county, town, city, village or school district, jointly, for the recovery thereof; but no judgment shall be rendered against any defendant therein, other than such principal contractor, for any amount greater than the amount due from it to such principal contractor at the time of the commencement of such action. Such county, town, city, village or school district, when served with the summons in any such action, may give notice thereof to such principal contractor and on so doing need not further defend such action. On rendition of judgment in such action against



## CHAPTER 89.

## FORM OF PLEADING IN JUSTICES' COURTS.

An Act amending section 3685, Revised Statutes of Utah, 1898, relating to the form of pleadings in justices' courts.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 3685, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

3685. Pleadings in Justices' Courts:

1. Are not required to be in a particular form; but must be such as to enable a person of common understanding to know what is intended.
  2. May, except the complaint, be oral or in writing; and if a complaint it must be verified.
  3. If in writing must be filed with the justice.
  4. If oral, an entry of their substance must be made in the docket.
- Approved this 9th day of March, 1905.

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## CHAPTER 90.

## RELATING TO PURCHASE, ETC., OF GOODS IN BULK.

An Act to regulate the purchase, sale, transfer and encumbrance of a stock of goods, wares, or merchandise, in bulk, or of any portion of a stock of goods, wares and merchandise, otherwise than in the usual course of trade, and prescribing penalties for the violation thereof.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. Purchaser of merchandise in bulk to obtain list of creditors of vendor. It shall be the duty of every person who shall bargain for or purchase any portion of a stock of merchandise, otherwise than in the ordinary course of trade and in the regular and usual prosecution of the seller's business, or an entire stock of merchandise in bulk, for cash or on credit, before paying to the vendor or his agent or representative or delivering to the vendor or his agent or representative, any part of the purchase price thereof or any promissory note or evidence therefor, to demand of and receive from such vendor or agent, or if the vendor or agent be a corporation, then from the president, vice-



**Sec. 3. Penalty for false statement.** Any vendor of any portion of a stock of merchandise otherwise than in the ordinary course of trade and in the regular and usual prosecution of the seller's business or an entire stock of merchandise in bulk, or any person who is acting for or on behalf of any such vendor who shall knowingly or wilfully make or deliver or cause to be made or delivered a statement as provided for in section 1 of this act, which shall not include the names of all the creditors of such vendor with the correct amount due and to become due to each of them or which shall contain any false or untrue statement, shall be deemed guilty of perjury and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one, nor more than five years, or shall be fined in any sum not exceeding two thousand dollars, or both fine and imprisonment.

**Sec. 4. What is deemed sale under this act. Exception.** Any sale or transfer of any portion of a stock of merchandise otherwise than in the ordinary course of trade and in the regular and usual prosecution of the seller's business or an entire stock of merchandise in bulk, or whenever an interest in or to the business or trade of the vendor is sold or conveyed or attempted to be sold or conveyed, such shall be deemed a sale and transfer in contemplation of this act; *provided*, however, that if such vendor produces and delivers a written waiver of the provisions of this act from at least a majority in number and amount of his creditors as shown by such verified statement, then and in that case the provisions of this act shall not apply.

**Sec. 5. Certain sales excepted.** Sellers, or vendors, and purchasers under this act shall include corporations, associations, co-partnerships, and individuals, but nothing contained in this act shall apply to sales or transfers by executors, administrators, receivers, assignees under a voluntary assignment for the benefit of creditors, trustees in bankruptcy or by any public officer under judicial processes.

Approved this 9th day of March, 1905.

**CHAPTER 91.****SALE OF RENOVATED BUTTER.**

**An Act to prevent deception in the sale of renovated butter, and to license manufacturers and dealers in the same, and prescribing a penalty for the violation thereof.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Renovated butter to be branded.** License for sale of. No person or persons, firms or corporations, by themselves or their agents or employee, shall sell, offer for sale or expose for sale or have in his or their possession for sale any renovated butter, unless the same shall have printed upon each and every package, roll, print, square, or any container of such renovated butter the words "renovated butter" in letters not less than one-half inch in height, or who shall not have secured from the State Food and Dairy Commissioner, now existing under the laws of this State, a license as provided hereinafter.

**Sec. 2. Renovated butter defined.** The term renovated butter, as used in this act, is hereby defined to mean and include butter that has been reduced to a liquid state by melting, and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product thereof.

**Sec. 3. License. Term. Amount of.** Any person or persons, firms or corporations, desiring to manufacture or deal in renovated butter shall make application to the State Food and Dairy Commissioner for a license, and upon payment of license fee of the amount mentioned herein, to the State Food and Dairy Commissioner, said State Food and Dairy Commissioner shall issue to the applicant a license. All such licenses shall expire December 31st of each year and may be issued in periods of one year or six months, upon payment of a proportionate part of the license fee. Manufacturers of renovated butter within this State shall pay an annual license fee of one thousand dollars; wholesale dealers shall pay an annual license fee of four hundred dollars; in such renovated butter retail dealers shall pay an annual license fee of fifty dollars; hotels, restaurants, boarding houses and all other places where meals are served and payment is received therefor, either immediately or by the day, week or month, where such renovated butter is used, shall pay an annual license fee of twenty-five dollars. The term wholesale dealers, as used herein, includes all persons, firms or corporations, who shall sell renovated butter in quantities of ten pounds or more. The term retailers includes all persons who sell in quantities of less than ten pounds. All licenses while in force shall be conspicuously displayed in the place of business of the party or parties to whom they have been issued. The State Food and Dairy Commis-



sioner shall require all persons holding manufacturers or wholesale licenses, as provided in this act, to keep a record in a form separate from all other business in which every sale of renovated butter shall be recorded, giving the quantity sold, the name and location of the buyer and the place to which it was shipped. Such record shall be accessible at all times to duly authorized representatives of the State Food and Dairy Commissioner.

**Sec. 4. License to be paid into State Treasury.** All license fees paid to the State Food and Dairy Commissioner under this act shall be paid by said Food and Dairy Commissioner into the State Treasury.

**Sec. 5. Penalty.** Whoever shall violate any of the provisions or sections of this act shall be guilty of a misdemeanor, and shall, upon conviction thereof, be punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars; or by imprisonment in the county jail for not less than ten days and not exceeding thirty days; and for each subsequent offense, by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than twenty days nor more than one hundred days or by both such fine and imprisonment, at the discretion of the court.

**Sec. 6. County Attorney must prosecute. Fines, where paid.** It shall be the duty of the County Attorney of each and every county in the State, upon application to attend to the prosecution in the name of the State of any action brought for the violation of any of the provisions of this act within his district. All of the fines imposed for the violation of any of the provisions of this act shall be paid to the county in which the fine is imposed.

Approved this 9th day of March, 1905.

## CHAPTER 92.

## CHANGES OF VENUE OF ACTIONS BEFORE JUSTICE.

An Act amending sections 3669 and 3671, Revised Statutes of Utah, 1898, and adding a new section to be known as 3671-A, relating to change of venue of actions pending before Justices of the Peace.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That sections 3669 and 3671, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

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3339. **Change of venue. When allowed.** The court must at any time before the trial, on motion, change the place of trial in the following cases:

1. When it appears to the satisfaction of the Justice before whom the action is pending, by affidavit of either party, that such Justice is a material witness for either party.

2. When either party makes and files an affidavit that he believes that he cannot have a fair and impartial trial before such Justice, by reason of the interest, prejudice, or bias of the Justice.

3. When a jury is demanded and either party makes and files an affidavit that he cannot have a fair and impartial trial, on account of the bias or prejudice of the citizens of the precinct or city against him.

4. When from any cause the Justice is disqualified from acting.

5. When the Justice is sick or unable to act.

6. When none of the parties defendant resided in the precinct in which said action is brought at the time it was commenced, and when any party defendant makes and files an affidavit to the effect that at the time of the bringing of the action none of the parties defendant were residents in the precinct wherein said action is brought and that the party making the affidavit did not contract to perform the obligation in said precinct and setting forth the place of his residence at the time of the bringing of the action and the particular place, if any, where he contracted to perform the obligation. Said affidavit shall be conclusive upon the parties to the action and upon the Justice as to the particular place, if any, where the defendant contracted to perform the obligation, and also as to the residence of the defendants at the time of the bringing of the action, unless some other party defendant shall within two days thereafter file with said Justice his affidavit stating his place of residence at the time of the bringing of said action was within the precinct where said action was brought. Where the affidavits filed under this provision show that at the time of the bringing of said action

all the defendants resided elsewhere than within the precinct wherein said action was brought, the court must change the place of trial without motion being made therefor, and his jurisdiction over said action shall cease, upon the filing of such affidavit, for all purposes, except that his jurisdiction shall continue for the sole purpose of transferring such case to the Justice of the Peace to whom such action is transferred.

3671. *Id.* To what court transferred. When the court orders the place of trial to be changed, upon any of the grounds specified in the first, second, third, fourth and fifth sub-division of section 3669, the action must be transferred for trial to a court the parties may agree upon, and if they do not agree, then to another Justice's court in the same county.

That a new section to be known as 3671-A be added, to read as follows:

3671-A. *Id.* When the place of trial is changed upon the filing of an affidavit of any party defendant to an action as provided for in sub-division 6 of section 3669, the action must be transferred for trial as follows:

1. Where there is only one party defendant, to the Justice of the precinct wherein said defendant, as shown by his said affidavit, resided at the time of the bringing of the action.

2. When there are two or more parties defendant to the action who are jointly or jointly and severally bound in any debt or contract, or otherwise jointly liable in the same action, and, they resided at the time of the bringing of said action in different precincts of the same county, where such action was brought, but neither of whom resided in the precinct where said action is brought at the time of the bringing of the action, as shown by the affidavit provided for in sub-division 6 of section 3669, to the Justice of the precinct where either one of the defendants resided at the time of the bringing of the action.

3. When there are two or more parties defendant to the action who are jointly or jointly and severally bound in any debt or contract or are jointly liable in the same action and who resided in different counties and neither one of whom resided in the precinct where said action was brought at the time it was commenced, as shown by the affidavit provided for in sub-division 6 of section 3669, to a Justice of the precinct in the same county where said action was brought and within which one of the defendants may have resided at the bringing thereof.

4. When there are two or more parties defendant to the action who are jointly or jointly and severally bound in any debt or contract or

are jointly liable in the same action and who resided in different counties and neither of whom resided in the county where said action was brought at the time of the bringing thereof, as shown by the affidavit provided for in sub-division 6 of section 3669, to a Justice of the Peace of the precinct and county where either of said defendants resided at the time of the bringing of said action.

Approved this 9th day of March, 1905.

## CHAPTER 93.

### SERVICE OF SUMMONS FROM JUSTICE'S COURT.

An Act amending section 3683 of the Revised Statutes of Utah, 1898, relating to the service of summons from Justice's courts, as amended by chapter 70 of the laws of Utah, 1899.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 3683 of the Revised Statutes of the State of Utah, 1898, as amended by chapter 70 of the laws of Utah, 1899, be, and the same is, hereby amended to read as follows:

3683. Summons from Justice's court, by whom served. A summons issued out of any Justice's court may be served by the sheriff of the county, by any constable of the precinct in which it is issued or in which service is to be made, or by a city marshal of the city in which service is to be made; *provided*, that where there is no acting constable or city marshal in any precinct or city where the summons is to be served and the sheriff is absent from such precinct and such fact appears by the affidavit of the plaintiff or his attorney duly filed, the justice may in writing depute any citizen over the age of twenty-one years to serve such summons. The return of service made by a sheriff, constable or city marshal within the county in which the action is pending may be by certificate and need not be sworn to; in all other instances, the return of service must be by affidavit of the person making the service. It shall be unlawful for any person to make service of summons issued out of any Justice's court except as in this section provided, and, any person violating any of the provisions of this section, shall be deemed guilty of a misdemeanor.

Approved this 9th day of March, 1905.

**CHAPTER 94.****DISTANCE A SUBPOENA MAY RUN.**

**An Act amending section 3421, Revised Statutes of Utah, 1898, relating to distance which subpoena may run under Code of Civil Procedure.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 3421, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**3421. Witness required to attend. Exception.** A witness is obliged to attend as a witness before any district court, a judge thereof or referee or master appointed by such district court or a judge thereof at any place in this State. A witness is not obliged to attend as a witness before any judge of a city court, any judge of a municipal court, any Justice of the Peace or other officer out of the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of trial.

Approved this 9th day of March, 1905.

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**CHAPTER 95.****CHILDREN REQUIRED TO ATTEND SCHOOL.**

**An Act amending sections 1916 and 1962 and 1963 of the Revised Statutes of Utah, 1898, providing for the appointment of associate examiners in cities of the first and second class; and providing that parents, guardians or other persons, having control of children of certain ages, shall be required to send such children to school during certain periods, and providing punishment to parents, guardians, or other persons having control of children for failure to do so.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That sections 1916 and 1962 and 1963 of the Revised Statutes of Utah, 1898, be and the same are hereby amended to read as follows:

**1915. Board of Examiners, how constituted.** In each city of the first and of the second class there shall be a Board of Examiners, consisting of City Superintendent of Public Schools or the superintendent-elect, and two or more other members having practical experience as teachers, residents of said city to be designated associate examiners. The associate examiners shall be elected by the Board of Education at their first meeting in April annually, and shall hold office

for one year, but no candidate for examination as a preliminary to teaching in the public schools shall be an associate examiner.

**1962. Compulsory attendance at schools. Exceptions.** Every parent, guardian, or other person having control of any child between eight and sixteen years of age, shall be required to send such child to a public, district, or private school in the district in which he resides, at least twenty weeks in each school year, ten weeks of which shall be consecutive; *provided*, that in cities of the first and second class such children shall be required to attend school at least thirty weeks in each school year, ten of which shall be consecutive; *provided*, that in each year such parent, guardian or other person having control of any child shall be excused from such duty by the school board of the district or the board of education of the city, as the case may be, whenever it be shown to their satisfaction that one of the following reasons exists:

1. That such child is taught at home in the branches prescribed by law for the same length of time as children are required by law to be taught in the district school.

2. That such child has already acquired the branches of learning taught in the district schools.

3. That such child is in such physical or mental condition( which may be certified by a competent physician if required by the board) as to render such attendance inexpedient or impracticable. If no such school is taught the requisite length of time within two and one-half miles of the residence of the child by the nearest road, such attendance shall not be enforced.

4. That such child is attending some public, district, or private school.

5. That the services of such child are necessary to the support of a mother or an invalid father.

The evidence of the existence of any of these reasons for non-attendance must be in each case sufficient to satisfy the superintendent, of the county or city in which the child resides; and the superintendent, upon the presentation of such evidence, shall issue a certificate stating that the holder is exempted from attendance during the time therein specified.

**1963. Penalty.** Any such parent, guardian, or other person having control of any child between eight and sixteen years of age who wilfully fails to comply with the requirements of the last preceding section, shall be guilty of a misdemeanor.

Approved this 9th day of March, 1905.

## CHAPTER 96.

## PUBLIC OFFICIALS SUBJECT TO GARNISHMENT.

An Act subjecting the salaries and wages of public officials and employees and other credits or personal property under the control of the State and its political sub-divisions, and their respective institutions or offices, to attachment, garnishment and execution, under the procedure applicable in other cases, and designating upon whom processes shall be served.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION. 1. Salaries of public officers or employees subject to garnishment.** The State of Utah, or any county, city, town, district board of education, or other sub-division of the State, or any officer, board, or institution or either of the same having in possession or under control any credits or other personal property of, or owing any debt to the defendant in any action, whether as salary or wages, as a public official or employee, or otherwise, shall be subject to attachment, garnishment, and execution under such rights, remedies and procedure as are or may be made applicable by statute to attachment, garnishment, and execution, respectively, in other cases, except as hereinafter provided.

**Sec. 2. Process, how served.** The process shall be served only upon the auditor of the legal sub-division garnisheed, and in case there is no auditor, then on the clerk of the county, city, town, district board of education or other sub-division of the State or board or institution or either of the same, and the answer of such auditor or clerk shall be final and conclusive, and the truth of such answer shall not be subject to further examination or proceedings of any kind."

Approved this 9th day of March, 1905.

## CHAPTER 97.

## LIMITATIONS OTHER THAN REAL PROPERTY.

**An Act to amend section 2877 Revised Statutes of Utah 1898, relating to limitations other than real property.**

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2877 Revised Statutes of Utah 1898 be and the same is hereby amended to read as follows:

**2877. Action for liability created by statute one year. Trespass, waste, fraud, etc., three years.**

1. An action for liability created by the statute of a foreign State or by the statute of this State other than a penalty or forfeiture under the laws of this State shall be begun within one year.

2. An action for waste or trespass of real property, within three years; *provided*, that when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting such waste or trespass.

3. An action for taking, detaining, or injuring personal property, including actions for specific recovery thereof, within three years; *provided*, that in all cases where the subject of the action is a domestic animal usually included in the term "live stock," having upon it at the time of its loss a recorded mark or brand, and when such animal was strayed or stolen from the true owner without his fault, the statute shall not begin to run against an action for the recovery of such animal until the owner has actual knowledge of such facts as would put a reasonable man upon inquiry, as to the possession thereof by the defendant.

4. An action for relief on the ground of fraud or mistake, three years; the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

Approved this 9th day of March, 1905.



## CHAPTER 98.

## HORTICULTURE.

An Act creating a State Board of Horticulture, providing for the publication and distribution of its reports, for the appointment of County Fruit Tree Inspectors, defining their duties and the duties of orchardists and nurserymen, making an appropriation for carrying out the provisions of this act and repealing chapter 104, laws of Utah 1903.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **State Board Horticulture created. How appointed.** A State Board of Horticulture is hereby created, consisting of five members, one of whom shall be the director of the Utah Agricultural College Experiment Station and the other four shall be appointed by the Governor by and with the consent of the Senate, one from each of the four horticultural districts which are hereby constituted as follows:

First.—The counties of Box Elder, Cache, Rich, Morgan and Weber shall be known as District No. 1.

Second.—The counties of Davis, Salt Lake, Tooele, Summit and Wasatch shall be known as District No. 2.

Third.—The counties of Utah, Juab, Carbon, Emery, Uintah, San Juan, Grand, Sanpete and Sevier shall be known as District No. 3.

Fourth.—The counties of Millard, Beaver, Piute, Wayne, Iron, Garfield, Kane, and Washington shall be known as District No. 4.

Sec. 2. **Term. Qualification.** Upon approval of this act, the Governor shall appoint four members, not more than three of whom shall belong to one political party, and their term of office shall be four years and until their successors are appointed and qualified. The members appointed from each district shall be residents of the district from which they are appointed, and shall be specially qualified by practical experience and study in connection with the industries dependent upon horticulture. Their term of office shall begin within thirty days after appointment.

Sec. 3. **Office at Capital. Must organize.** Said Board shall have an office at the State Capital, which shall be maintained at the expense of the State, and within thirty days after their appointment they shall meet and organize by electing a president and secretary from their number. The State Treasurer shall be ex-officio treasurer of the Board.

Sec. 4. **Meetings. Institutes. Lectures.** The Board shall meet semi-annually, and as much oftener and at such places as it may deem expedient, to consult and adopt such measures as may best promote the

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horticultural industries of the State. It may hold institutes and horticultural meetings, and may appoint competent and qualified persons to lecture in each of the horticultural districts named in section 1 of this act, for the purpose of illustrating practical horticultural topics, and imparting instruction in the methods of culture, pruning, fertilizing and also in the best methods of treating the diseases of fruit and fruit trees, etc., cleaning orchards, and exterminating insect and other pests. They shall also confer with and instruct the County Fruit Tree Inspectors provided for herein in relation to their duties, as occasion may require, and shall have general supervision over the enforcement of the provisions of this act.

*Repealed ch 67-07.*

**Sec. 5. Qualifications and duties of secretary.** The secretary besides being a practical horticulturalist shall be especially qualified for his office by experience and education to compile and correct reports and essays; to present in a logical order all the information to be published by the Board. It shall be his duty to attend all meetings of the Board, and to prepare and preserve all reports of its proceedings and correspondence, to collect books, pamphlets, and periodicals, and other documents containing information relating to horticulture, and to preserve the same, to collect statistics and other information showing the actual condition and progress of horticulture in this State and elsewhere, and prepare, as required by the Board, reports for publication, and shall distribute by mail or otherwise the bulletins, reports and other publications of the Board, to the fruit growers of the State, and others who may request them; and to perform all such other duties as may be prescribed by the Board.

**Sec. 6. Compensation of members and secretary.** The compensation of each appointed member of the State Board of Horticulture shall be four hundred dollars per annum, excepting the member designated to act as secretary, provided for herein, who shall receive as compensation the sum of twelve hundred dollars per annum, who shall devote all his time and attention to the Board, and shall not be engaged in any other business. In addition to such compensation, each member of the Board shall receive the amount of his actual and necessary traveling expenses when on official business. The salaries and other expenses as provided herein shall be paid as provided in case of other State officers; *provided*, that before entering upon the discharge of his official duties, each member shall make and subscribe to the constitutional oath of office.

**Sec. 7. Office open every day. Exception.** The office of the Board shall be in charge of the secretary and shall be open for the transaction of business each day during the year, excepting Sundays and legal holidays, and excepting such time as the secretary of the Board may

be in the active discharge of his duties outside of said office; *provided*, that the necessary office expenses shall be paid from the funds hereinafter appropriated as other expenses are paid.

**Sec. 8. Gifts for promotion of horticulture.** The State Treasurer is hereby authorized to receive gifts, donations, or bequests of money or property for the promotion of the horticultural interests of Utah, and to disburse the same upon the warrants of the State Auditor, which said warrants shall be drawn only upon order of the majority of said Board of Horticultural Commissioners, and for the purpose named in this title.

**Sec. 9. Board to enforce quarantine.** The State Board of Horticulture is hereby vested with all necessary authority to enforce quarantine against any infested fields, lots, orchards, nurseries, trees, plants, shrubs, vines, buds or scions, fruits or any place or article within the State when the same may be liable to spread contagious diseases injurious to fruit or trees, or fruit crops of any kind, and to provide necessary rules and regulations to govern the same.

**Sec. 10. Regulations for quarantining and disinfection.** For the purpose of preventing the introduction into the State or spread of contagious diseases, insect pests, or fungus growth among fruit, shade and ornamental trees, and for the prevention, treatment, cure and extirpation of fruit and tree pests and diseases of fruit and fruit, shade and ornamental trees, and for the disinfection of grafts, scions, orchards debris, fruit boxes, and packages, and other material or transportable articles harboring or containing infectious diseases or insect pests dangerous to orchards, fruit or trees of any kind, said Board shall make regulations for the quarantining and disinfection thereof; which said regulations shall be circulated by the board, in printed form among the fruit growers, fruit dealers and nurserymen of the State, by publishing the same at least four successive times in some newspaper having a general circulation in the State; and by posting copies thereof in three conspicuous places in each county, one of which shall be at the county court house. Such regulations, when so circulated and promulgated, shall be held to impart notice of their contents to all persons within the State and shall be binding upon them. A willful violation or violation by neglect of any quarantine or other regulation of said Board, necessary to prevent the spread and introduction into the State of fruit or tree diseases or insect pests, or the shipment, sale or distribution of any article so infected, as to be dangerous to the fruit growing interests of the State, or the spread of dangerous diseases among trees or orchards, shall be deemed a misdemeanor.

**Sec. 11. Bulletins to be issued.** For the purpose of disseminating knowledge concerning contagious diseases or injurious pests affecting

trees, plants, vines or fruit, and the remedies, preventives, and disinfectants applicable thereto, the Board shall from time to time, as it may deem necessary, have bulletins printed containing such information, remedies, preventives and disinfectants as it may approve, together with the rules and regulations formulated by it in accordance with section 10 of this act; which bulletins shall be circulated among the fruit growers, fruit dealers, shippers, transportation companies of horticultural products and their agents within the State.

*Repealed ch 67-07*

**Sec. 12. County Horticultural Inspectors. Qualifications. Term. Duties. Compensation.** Within thirty days after this law goes into effect, the Board of County Commissioners of the several counties shall appoint one county horticultural inspector and as many deputies as deemed necessary to carry out the provisions of this act, said inspectors and their deputies shall be competent, experienced and practical horticulturalists. Such inspectors shall hold office for a term of two years, and until their successors are appointed and qualified, unless sooner removed for cause. They shall qualify by taking and subscribing the constitutional oath, which shall be filed with the County Clerk; said inspectors shall be paid out of the county treasury for the time and services actually rendered, at such rate per day as the Board of County Commissioners shall fix, not to exceed \$3.00 per day for inspectors, and \$2.00 for deputies with reasonable transportation expenses. The county inspector or inspectors shall carry out the provisions of this act, and the regulations of the State Board of Horticulture, and perform such other labors as the county commissioners may direct for the extirpation of fruit and other pests and diseases. *Provided*, that it shall not be lawful to spray with any arsenical or other poisonous material any tree or shrub when the same is in bloom; *provided further*, that in the event of any county inspector failing or refusing to properly perform his duties, nothing in this act shall be construed to prevent the member of the State Board of Horticulture for the district in which said county inspector may be derelict, from enforcing in said county the provisions of this act and the rules and regulations of the State Board of Horticulture.

**Sec. 13. Orchards, etc., to be inspected and disinfected. Penalty.** The County Fruit Tree Inspector or his deputies in each county shall make an inspection of every orchard, nursery, vineyard and fruit packing or cold storage house, store-room or salesroom, warehouse, or any other place or article connected with horticulture within their jurisdiction, at least once every year and as much oftener as may be deemed necessary for the protection of the fruit interests of the county, and if found infected with pests or diseases injurious to fruit or fruit trees, vines, shrubs, plants, ornamental or shade trees, they shall notify the owner, or owners, person or persons, in charge or possession of the

fruit, trees, vines, shrubs, or places or articles as aforesaid, that the same or any of them are infected with disease, insects or their eggs or larvae and they shall require such persons to remove or disinfect the same and make application of such treatment for the purpose of destroying them, as prescribed by the State Board of Horticulture, within a certain time to be specified in said notice, said notice may be served upon the person, or persons, owning or having charge of such infected trees, fruits, or places or articles aforesaid, by any inspector, or they may be served the same as a summons in a civil action. If the owner, or owners, person or persons, in charge or possession of orchards or nursery trees, ornamental or shade trees, fruits, places, or articles infected with said diseases, insects, or any of them, their larvae or eggs, after having been notified as above by said inspector, to destroy the same or make application of treatment, as directed, shall fail, neglect or refuse so to do, they shall be deemed guilty of maintaining a public nuisance and shall be punished by fine, not less than five nor more than one hundred dollars, and any such orchards, nurseries, trees or places or articles thus infected shall be adjudged and the same is hereby declared a public nuisance, and shall be proceeded against as such. It shall be the duty of the county inspector in whose county said nuisance shall exist, to cause such nuisance to be abated at once by eradicating or destroying said disease, insects or pests, or their larvae or eggs, by treating or disinfecting the infected or diseased trees, plants, places or articles as aforesaid, and the cost thereof shall be assessed against the owner or owners, person or persons, in charge of said property or premises; and if not paid within ten days from demand, the said expense shall become a county charge, and the Board of County Commissioners shall allow and pay the same out of the general fund of the county. Any and all sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated in pursuance of this act, and may be recovered by an action against the owner or owners of such property or premises. *Provided*, that all formulas for disinfection or eradication of said diseases or insect pests shall be as prescribed by the State Board of Horticulture, but the time and place of application shall be left to the discretion of the county inspectors.

**Sec. 14. Extirpation of non-curable tree diseases.** For the extirpation of serious non-curable tree diseases, such as pear blight, crown gall, peach yellows, peach rosette, upon discovery of said diseases the county fruit tree inspector shall notify the owner or owners, person or persons in charge or possession of said trees or shrubs, of such fact, and shall require such persons to extirpate the said diseases by destroying the affected trees or shrubs by burning, within a certain time to be specified in said notice, said notice to be served upon the person, or

persons, owning or having charge of such infected trees, as aforesaid, by any inspector, or they may be served the same as a summons in a civil action. If the owner, or owners, person or persons, in charge or possession of said trees, or shrubs, after having been notified as above by said inspector, to destroy the same as directed shall fail, neglect or refuse so to do, they shall be deemed guilty of maintaining a public nuisance and the case shall be reported to the county attorney, who shall file a complaint and it shall be speedily adjudicated and if charges are found correct the court shall order the same destroyed or removed, the costs to be paid within ten days by the owner or person in charge, if not it shall be paid by the county, and it shall be collected by the county attorney with costs, and paid into the county treasury.

*Repealed Ch 69-07*

**Sec. 15. County inspectors to report monthly. Secretary State Board to report biennially.** The county inspector shall make monthly reports to the county commissioners and to the secretary of the State Board of Horticulture on forms prescribed by the said Board. Said reports shall embrace the labors of the county inspector and his deputies for the month and statistics showing the general condition of horticulture within the county, together with such statement of facts and recommendations as he may deem useful to the horticultural interests of the county. The secretary of the State Board shall make a biennial report to the Secretary of State, the first day of December preceding the meeting of the State Legislature, and the Secretary of State shall cause 5,000 copies of the same to be published in a pamphlet or book form, for distribution as other State publications.

**Sec. 16. Orchard owners to guard against pear blight, peach rosette and peach yellows.** It shall be the duty of every owner, possessor or occupier of any orchard, nursery, garden lot or land where trees are grown within this State, to remove from said land and destroy by burning all diseased or decayed branches of fruit trees affected with pear blight, and to burn and destroy all dead trees and trees affected with peach rosette or peach yellows.

**Sec. 17. Trees imported to be fumigated.** It shall not be lawful for any nurseryman, corporation or private individual to import into this State or to ship in the State any trees, shrubs, or vines, unless the same are properly certified to by a professor of entomology of a Government Experiment Station, or an officer of a State Board of Horticulture, or a regular examiner and appointed county inspector, operating in the regular discharge of their duties, as having been fumigated or disinfected by hydrocyanic acid gas before shipment. Importations of trees or shrubs unaccompanied by such certificate of fumigation shall be held in quarantine at owner's risk until so fumigated, at the cost of the importer. Said fumigation shall be made to the satis-

faction of the County Fruit Tree Inspector, or of the member for that district of the State Board of Horticulture.

**Sec. 18. Nursery stock to be disinfected.** It shall be the duty of any and all owners of any nursery or nurseries or nursery stock to disinfect by the use of hydrocyanic acid gas all their nursery stock for the destruction of insects or diseases injurious to trees or shrubs before removing the same, or any of it, from their premises for sale, gift, distribution or transportation.

**Sec. 19. State Horticultural Exhibits.** The State Board of Horticulture shall have power to authorize the holding of State Horticultural exhibitions, and shall determine the time and place for holding said exhibitions, with power to arrange for premiums and awards, and perform such other duties as may be necessary in conducting such exhibitions.

**Sec. 20. Appropriation.** For the purpose of carrying out provisions of this act, eight thousand dollars is hereby appropriated out of any money in the State treasury not otherwise appropriated; four thousand dollars, or so much thereof as may be necessary to be paid in the year 1905 and four thousand dollars in the year 1906.

**Sec. 21.** That chapter 104, laws of Utah, 1903, is hereby repealed.

**Sec. 22.** This act shall take effect upon approval.

Approved this 9th day of March, 1905.

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## CHAPTER 99.

### CLASSIFICATION OF CITIES.

An Act amending sections 174 and 175, Revised Statutes of Utah, 1898, relating to the classification of cities and the changing of classes of such cities.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 174, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**174. Classification of Cities.** Municipal Corporations in this State now existing and those hereafter organized shall be, and the same are hereby divided into three classes. Those cities having thirty thousand or more inhabitants shall be known as cities of the first class; those cities having more than five thousand and less than thirty thousand in-

habitants shall be known as cities of the second class; and all other cities shall be known as cities of the third class.

Sec. 2. That section 175, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

175. **Change of Class.** Whenever any city of the second class shall have attained the population of thirty thousand or more, or any city of the third class, or town, shall have attained the population of five thousand or more, and such fact shall have been duly ascertained and certified to the Governor by the mayor or the president of the board of trustees, he shall declare, by public proclamation, such city or town to be of the first or second class, as the case may be, and such city or town, thus changed, shall be governed by the provisions of this title applicable to cities of such class.

Approved this 9th day of March, 1905.

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## CHAPTER 100.

### TOWNSITES.

An Act extending the time for complying with the provisions of title 69, Revised Statutes of Utah, 1898, in relation to townsites.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Extending time to apply for lot in townsite.** That any claimant of any lot, block or parcel of land in any town or city, as defined in title 69, Revised Statutes of Utah, 1898, who shall have failed or neglected to make application for said lot, block or parcel within the time provided by law, may at any time within one year after the approval of this act, make and file the application provided for in said title, and the same shall be heard and determined in the same manner, and with like effect as if made within the time prescribed in said original title; *provided*, that in no case shall such application be received or entertained by a court of competent jurisdiction if it appears that the title to the lot, block or parcel shall have been heretofore transferred in any manner by such town or city, adjudged or decreed to any prior claimant by said court; *provided further*, that nothing in this act shall be construed as to enlarge or extend the rights of parties in contest cases now pending in any court.

Approved this 9th day of March, 1905.



**CHAPTER 101.****STATE BOARD OF CORRECTIONS.**

**An Act to amend section 2220, Revised Statutes of Utah, 1898, relating to the State Board of Corrections.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 2220, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**2220. Board of Corrections.** The government and control of the State Prison, and the charge of its general interests and affairs shall be vested in a Board of Corrections which is hereby created and which shall consist of the Governor ex-officio and two resident citizens of the State both of which citizen members shall not be of the same political party. The citizen members of the Board shall be appointed by the Governor, by and with the consent of the Senate. Each citizen member of the Board shall hold office for four years and until his successor shall be appointed and qualified.

Approved this 9th day of March, 1905.

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**CHAPTER 102.****EXEMPTIONS FROM LIABILITY TO ACT AS JURORS.**

**An Act to amend section 1299, Revised Statutes of Utah, 1898, making certain exemptions from liability to act as juror.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 1299, Revised Statutes of Utah, 1898, be, and the same is hereby amended to read as follows:

**1299. Who exempt from jury duty.** A person shall be exempt from liability to act as a juror who is:

1. A judicial or civil officer of the United States, or of the State of Utah, or who is a member of the organized militia of the State of Utah.
2. A person holding a county, city town or precinct office.
3. An attorney and counselor at law.
4. A person editing a newspaper or periodical.

5. A teacher in a university, college, academy, or school.
6. A practicing physician or surgeon.
7. An officer, keeper, or attendant of an almshouse, hospital, asylum, or other charitable institution.
8. A person engaged in the performance of duty as officer or attendant of a county jail or of the State Prison.
9. An express agent, mail carrier, telegraph or telephone employee, miller, or keeper of a public ferry or toll gate.
10. A dispensing druggist of a prescription drug store.
11. A superintendent, engineer, conductor, fireman, or station agent of a railroad.
12. A person drawn as a juror in any court of record in this State, upon a regular panel, who has served as such within a year; but this exemption shall not extend to a person who is summoned as a juror for the trial of a particular case.
13. An active member of a regularly organized fire company of any city or town in this State.
14. A female citizen.

Approved this 9th day of March, 1905.

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## CHAPTER 103.

### MUNICIPAL COURT.

An Act amending chapter 112, laws of Utah, 1901, entitled "An Act to create and organize a municipal court in certain cities, and to define the powers and duties, and jurisdiction thereof, and making the judge of said court, ex-officio justice of the peace of said cities, and ex-officio justice of the peace of the precincts embraced in said cities," by adding a section thereto providing for the publication of summons.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. Chapter 112 laws of Utah 1901 be and the same is hereby amended by adding thereto an additional section to be known as section 25 and reading as follows:

Sec. 25. **Service of summons by publication.** A summons issued out of this court may be served by publication and sections 2949, 2950, 2951 and 2952, Revised Statutes of Utah, 1898, providing for the publi-

cation of summons issued out of the District Court are made applicable to municipal courts, the necessary changes and substitutions being made therein.

Approved this 9th day of March, 1905.

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## CHAPTER 104.

### COMMISSION TO INVESTIGATE COLLEGES.

An Act creating a commission to investigate the work of the Agricultural College of Utah and of the University of Utah, defining its powers and duties, and making an appropriation therefor.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Commission created.** A commission is hereby created consisting of nine members to be appointed by the Governor as follows: Two from Cache County, one from Weber County, two from Salt Lake County, one from Sanpete County, one from Utah County, one from Beaver County, with the Governor as ex-officio member and chairman thereof.

**Sec. 2. Duties of Commission.** The duties of said commission shall be to investigate thoroughly the duplication of work in the Agricultural College of Utah and the University of Utah; to ascertain the cost of such duplication and to consider the advisability of submitting to the electors of this State, an amendment to Section 4, Article 10, of the Constitution of the State of Utah providing for the consolidation of said Agricultural College of Utah and said University of Utah. The said commission shall prepare, submit to and file with the Secretary of State of the State of Utah, on or before July 1st, 1906, its findings as a result of the investigations made by it, and said Secretary shall transmit the said report to the Legislature within the first five days of its next session.

**Sec. 3. Witnesses may be examined.** Said commission is hereby authorized and empowered to summon before it such witnesses as it may deem necessary, to examine them under oath, and to examine into the books and accounts of both of said institutions.

**Sec. 4. Commission to serve without compensation.** The said commission shall serve without compensation, but shall be allowed the actual and necessary expenses incident to said investigation.

**Sec. 5. Appropriation.** The sum of one thousand dollars or so much thereof as may be necessary is hereby appropriated for the purpose of carrying into effect the provisions of this act.

Approved this 9th day of March, 1905.

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## CHAPTER 105.

### SERVICE OF SUMMONS.

An Act to amend section 2948, Revised Statutes of Utah, 1898, as amended by chapter 51, laws of Utah, 1899, relating to the service of summons.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2948, Revised Statutes of Utah, 1898, as amended by chapter 51, laws of Utah, 1899, be and the same is hereby amended to read as follows:

2948. **Summons, how served.** The summons must be served by delivering a copy thereof as follows:

1. If the defendant is an incorporated city, to the mayor or recorder; if an incorporated town, to the president or clerk of the board of trustees.

2. If the defendant is a county, to a county commissioner or to the county clerk of such county.

3. If the defendant is a school district, to a trustee thereof, if the Board of Education of a city, to the president or clerk of such Board.

4. If the defendant is an irrigation district, to the president, superintendent or water master.

5. If the defendant is a domestic corporation, to the president or head of the corporation, secretary, treasurer, cashier, or managing agent thereof. If no such person can be found within the State, then upon a director of the corporation found within the State. If the defendant is a foreign corporation, or non-resident joint stock company or association, to the president, secretary, treasurer, or other officer thereof, or to the person designated by such corporation, company or association, as one upon whom process may be served. If no such person can be found, then upon any clerk, superintendent, general agent, cashier, principal director, ticket agent, station keeper, managing agent, or other agent having the management, direction, or control of

any property of such corporation, company or association. If none of the persons named in this sub-division can be found in the county in which such action is commenced, then service may be made as provided herein upon any such persons in any county in this State. If there be none of such persons in the State of Utah, and the defendant has, or advertises, or holds itself out as having, an office or place of business in this State, or does business in the State, then upon the person doing such business or in charge of such office or place of business.

6. If the defendant is a minor under the age of fourteen years, to such minor and also to his father, mother or guardian; or, if there is none within the State, then to any person having the care and control of such minor, or with whom he resides, or in whose service he is employed.

7. If the defendant is a person judicially declared to be of unsound mind or incapable of conducting his own affairs, and for whom a guardian has been appointed, to such guardian.

8. In all other cases, to the defendant personally, or by leaving such copy at his usual place of abode with some suitable person of at least the age of fourteen years.

Approved this 9th day of March, 1905.

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## CHAPTER 106.

### UNJUST DISCRIMINATION AGAINST NEWSPAPERS.

An Act to prevent unjust discrimination against publishers of newspapers, by persons, association of persons, and corporations engaged in the business of gathering and distributing for publication, information or news, and declaring such combinations to be unlawful.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Discrimination in vending news prohibited.** That all persons, all associations of persons, and all corporations engaged in the business of buying, gathering, or accumulating information or news for publication, and vending, supplying, distributing or disseminating the same for publication, either to its members or otherwise, shall be deemed to be engaged in a business upon which a public interest in ingrafted, and shall make no distinction with respect to newspaper publishers desiring to purchase such news or information for publication.

**2. Unlawful to discriminate.** It shall be unlawful for any person association of persons, or corporations engaged in gathering and furnishing news for publication, to make any discrimination or distinction

with respect to a person or corporation engaged in publishing a newspaper.

**3. Combinations prohibited.** Any combination by persons having for its object or effect the controlling of information or news gathered or accumulated for distribution and publication, shall be deemed a trust, and hostile to the public welfare, and is prohibited and declared unlawful.

**4. Associations engaged in gathering news must render impartial service.** All persons, associations of persons, and corporations engaged in the business of gathering and disseminating information or news for publication by its members, or stockholders, or otherwise, shall be deemed to be engaged in a business in which the public is interested, and shall furnish such news to any and all newspapers desiring to publish the same at the same price as charged to the members of said association, or corporation, or stockholders of any such corporation, without discrimination between the members or stockholders and such newspapers desiring to publish such information and news; and shall render equal and impartial service to all publishers of newspapers who shall offer to pay a reasonable price therefor.

**5. Certain contracts void.** That any contract or agreement in violation of the provisions of this act, shall be absolutely void and not enforceable either in law or equity.

**6. How combination proved.** In all actions brought under this act, it shall be sufficient to prove that a trust or combination as defined herein, exists, and that the defendant belonged to it, or acted for or in connection with it, without proving or producing any article of agreement, or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

**7. Telephone and telegraph companies agents. Process, how served.** All telephone and telegraph companies employed to transmit such information or news shall be deemed to be agents of such persons and corporations, and all legal process may be served by the officers of the law upon such telephone and telegraph companies; and an offer to pay a reasonable price to said telephone or telegraph companies shall be equivalent to an offer to pay the same to the persons or corporations gathering and disseminating such information or news.

**8. Terms defined.** The words "person" or "persons" wherever used in this act, shall be deemed to include corporations, companies and associations, existing under or authorized by either the laws of the United States, or of any of the territories, any State or any foreign State.

Approved this 9th day of March, 1905.

## CHAPTER 107.

## COUNTY SCHOOL DISTRICTS OF THE FIRST CLASS.

**An Act providing for county school districts of the first class, placing these upon the same basis of administration as school districts in cities of the second class, and making necessary regulations therefor. And repealing all acts and parts of acts in conflict with the provisions of this chapter, so far as they relate to county school district of the first class as herein described.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION. 1. County school district of the first class.** In each county of this State, where a school district therein, outside of the limits of cities of the first and second classes, shall comprise a school population of more than three thousand children over six and under eighteen years of age, as shall appear from the last enumeration reported to the office of the County Superintendent of Schools, or of the State Superintendent, as the case may be, said district of more than three thousand school population shall be known as a county school district of the first class. Said county school district of the first class is hereby placed upon the same basis as school districts in cities of the second class under the laws of this State, except as herein otherwise provided, and the public school system therein shall be controlled by the Board of Education of such district. The name of such school district shall be as designated by resolution of the Board of County Commissioners in the county where such district is located.

*amended  
Ch 113-07*

**Sec. 2. Schools therein to be free. Under direction of Board.** In each district subject to the provisions of this chapter, the public schools therein shall be free to all children between the ages of six and eighteen years. All public schools and school property therein shall be under the direction and control of the Board of Education.

**Sec. 3. Board, how constituted.** The Board of Education of each county school district of the first class shall consist of five members, one to be elected from and by each of five representative precincts, within said school district. Where any such district is divided into a lesser or greater number than five precincts at the time of coming under the operation of this chapter, then the Board of County Commissioners in which such district is located shall forthwith divide the same into representative precincts for school purposes; but where any such school district that now exists or may be created hereafter is divided into five precincts for the election of justices of the peace and constables, such precincts are hereby constituted school representative precincts, the boundaries thereof to remain such until changed according to the law providing for changing the boundaries of precincts in counties.

*revised*  
*h 113-07*

Sec. 4. **Members of Board, how elected. Must qualify.** There shall be elected in the county school districts of the first class, on the first Wednesday of December, nineteen hundred and five, one member of the board from each school representative precinct, for a term of three years, and in nineteen hundred and eight, and every four years thereafter, on the first Wednesday of December, one member from each school representative precinct for the term of four years. Where any county school district of the first class exists or may be created, the Board of County Commissioners shall appoint the members of the Board of Education, to serve until the next election provided for in this section, and until their successors are duly elected and qualified; *provided*, that where there have been designated three trustees for the entire district, each one being from a school representative precinct, then these are constituted members of the Board of Education until the next election, and the Board of County Commissioners shall appoint two other members, one from each unrepresented representative precinct; but where two or more trustees are from one school representative precinct, the Board of County Commissioners shall designate the member of the Board of Education. Members of the Board of Education in a county school district of the first class shall qualify by taking and subscribing the constitutional oath of office, and giving bonds to the district in which they reside in such sum and with such sureties as the Board of County Commissioners may require and approve, conditioned for the faithful discharge of the duties of their office; the oath of office and bonds to be filed with the County Clerk.

Sec. 5. **Must qualify. When.** Members of the Board of Education shall qualify previous to, and take their seats at, the first regular meeting in January next after their election, and shall serve until their successors are duly elected and qualified.

Sec. 6. **Elections, how conducted.** Elections for members of the board shall be called and conducted, and the canvass of returns shall be made, and the qualification of electors shall be as provided in the general registration and election laws, except as in this section hereinafter provided. There must be at least two voting places in each school representative precinct. It shall not be necessary to file certificates of nomination of candidates, nor to publish a list of nominations. Appointments of judges of election shall be made by the Board of Education at any convenient time prior to the day of election. The Board of Education shall furnish the judges of election at every polling place with a sufficient number of plain envelopes for election purposes and shall pay all other lawful and necessary expenses of the election. Such envelopes shall be uniform in size and quality, without any marks, writing, printing, or device upon them; and no other kind shall be used at any election. Every voter shall designate on a single ballot, written



or printed, the name of the person or persons voted for, with a pertinent designation of the office to be filled. The ballot shall be folded and placed in one of the envelopes hereinbefore provided for, and shall be delivered to the presiding judge of election, who shall, in the presence of the voter, on the name of the proposed voter being found on the registry list, and on all challenges to such vote being decided in favor of such voter, deposit it in the ballot box, without any mark whatever being placed upon such envelope; otherwise the ballot shall be rejected. The Board of Education shall exercise all such powers relative to school elections in their respective districts as are conferred upon the Board of County Commissioners in other elections, so far as conformable with this chapter.

**Sec. 7. Must reside in District. Vacancies.** Every member of the Board of Education in county school districts of the first class shall be and remain a resident, qualified, registered voter in the school representative precinct from which he is elected or appointed; and the Board of County Commissioners is hereby required to fill any vacancy that may occur through non-residence or any other cause, until the next election of members of the board; *provided*, that any vacancy occurring previous to the annual election having an unexpired term shall be filled for such unexpired term at the first school election thereafter, and the ballots shall be as follows: "To fill the unexpired term....."

**Sec 8. Board must organize.** The members appointed or elected as herein provided shall, before entering upon the discharge of their duties, take and subscribe the constitutional oath of office. They shall organize by electing from their number a president and vice-president, whose term of office shall be for two years and until their successors are elected and qualified. They shall also elect a clerk and a treasurer, who shall be registered voters in the school district, and whose respective terms of office shall be two years and until their successors are elected and qualified.

**Sec. 9. Officer may be removed.** Any officer appointed or elected by the Board of Education for a specified term, as provided in the next preceding section, may be removed from his office for cause by a vote of two-thirds of the board.

**Sec. 10. Board may appoint other officers.** The Board of Education shall have power to appoint all other officers that in its judgment may be necessary fully to carry out the provisions of this chapter, for the protection and improvement of school property, and for the promotion of the interests of the schools, and remove the same at pleasure, and may require any such officer to give a bond to the board in such sum as it may prescribe. The oath of office and bond of the clerk shall be filed with the treasurer, and all others shall be filed with the clerk.

**Sec. 11. Superintendent of Schools to be appointed. Term. Duties.** At the first meeting of the board in June, nineteen hundred and seven and biennially thereafter, a Superintendent of Schools shall be elected by the board who shall subscribe the constitutional oath of office, and shall enter upon his duties on the first day of July thereafter. His term of office shall be two years, and until his successor shall be elected and qualified: *provided*, that until the date herein stated, the County Superintendent shall, as such officer, perform the duties of Superintendent of Schools in county school districts of the first class situated in county of which he is school superintendent. Said superintendent shall attend the convention of school superintendents provided for in section seventeen hundred and eighty-one, Revised Statutes of Utah, 1888.

**Sec. 12. School year. Reports.** The school year shall commence on the first day of July annually, and close on the last day of June following. The annual reports of the president, the superintendent, and the several committees shall be presented to the board at or before the first regular meeting in August of each year.

**Sec. 13. Compensation of Board.** The members of the Board of Education shall fix the compensation to be received for their services, at a sum not to exceed three hundred dollars per annum, and traveling expenses not to exceed fifty dollars per annum: *provided*, that the compensation of members of the board appointed prior to any election of members as named herein shall be fixed by the Board of County Commissioners.

**Sec. 14. School Census.** The Board of Education shall appoint suitable persons for each school representative precinct who shall act as enumerators for school population for said precinct, and visit every house therein between the 15th and 31st of July of each year, and ascertain and enter upon the lists the name of every person between the ages of six and eighteen years residing in such precinct, and also the name, age, past five address, and name of the parent or guardian of every deaf or dumb person over the age of five and under the age of thirty years, too deaf or dumb to receive an education in the public schools. Such enumeration lists shall contain all information required by law and such other information as the State Superintendent and the Board of Education may require.

**Sec. 15. Apportionment of School Moneys.** The enumeration lists shall be filed with the clerk of the board as soon as completed, and not later than the tenth day of August. Immediately thereafter, the clerk of the board shall make out and forward to the County Superintendent, if there be one, to the County Auditor, and to the State Superintendent a statement showing the number of children of school age residing in the district together with all information obtained under the provi-

sions of the last preceding section and financial and statistical reports for the past school year, containing such items as shall be required by law or by the State Superintendent; and thereupon the State Superintendent shall allot to such school district a proper pro rata of State school funds subject to allotment, and shall apportion the amount due and certify the same to the Board of Education of said district; the State Superintendent shall also make to county school districts of the first class the apportionment required by section seventeen hundred and seventy-five, Revised Statutes of Utah, 1898, and furnish to the County Treasurer, the County Auditor, and the County Superintendent, if there be one, in counties where any such county school district of the first class may be situated, an abstract of such apportionment, as in the case of cities of the second class. The County Auditor of counties divided into districts of the first class, shall apportion to the several school districts in his county according to the number of school children residing in each district over six and under eighteen years of age, as shall appear from the last enumeration from his office, and shall notify the Board of Education of each district of the same. He shall also apportion to cities of the first and second class in his county their proportion per capita of the county school fund.

**Sec. 16. Duties of president of Board.** It shall be the duty of the president to preside at all meetings of the board, to appoint all committees, and to sign all warrants ordered by the Board of Education to be drawn upon the treasurer for school moneys. In case of the absence or disability of the president, his duties shall be performed by the vice-president.

**Sec. 17. Clerk must qualify.** Before entering upon the discharge of his duties, the clerk shall give a bond to the Board of Education of such school district in such sum as said board may prescribe, with good and sufficient sureties, to be approved by the board, conditioned for the faithful performance of his duties, and shall qualify according to law.

**Sec. 18. Duties of Clerk.** It shall be the duty of the clerk to attend all meetings of the board; to keep an accurate journal of its proceedings, and have the care and custody of the seal, records, and papers not otherwise provided for; to countersign all warrants drawn upon the treasurer by order of the board; to keep an accurate account of all moneys paid to the treasurer on account of said board and from what source received, and all moneys paid on orders drawn on the treasurer by order of said board; and to prepare and submit to the board an annual statement, under oath, of the receipts and disbursements during the year ending June thirtieth, which statement the board shall cause to be published in a newspaper having general circulation in the county, showing:

1. The amount on hand at the date of the last report.

2. The amount of sinking fund and how invested.
3. The moneys paid out, to whom, and for what paid.
4. The balance of school moneys on hand.
5. The number, date, and amount on every bond issued and redeemed under the authority herein given, and the amount received and paid therefor. The clerk shall perform such other duties as the board and its committees may require. He shall receive for his services such compensation as the board may determine.

**Sec. 19. Treasurer must qualify. Duties.** The treasurer of the Board of Education shall subscribe to the constitutional oath of office and give a bond to the board with sufficient sureties and in such sum as the board may require; said oath and bond to be approved by the board and filed with its clerk. He shall be the custodian of all moneys belonging to the corporation and responsible upon his bond for all moneys received by him as treasurer. He shall prepare and submit in writing a monthly report of the receipts and disbursements of his office, and pay out school moneys only upon a warrant signed by the president, or in his absence or disability, by the vice-president, countersigned by the clerk, and shall perform such other duties as the board may require. The treasurer shall receive for his services such amount as the Board of Education may fix and determine. The board may require the treasurer to keep his office and records in the office of the board.

**Sec. 20. Board a body corporate.** Members of Board and clerk may administer oaths. The Board of Education of any such county school district of the first class shall be a body corporate under the name of "The Board of Education of . . . . . School District," (inserting the proper name,) and shall have an official seal conformable to such name, which shall be used by the clerk in the authentication of all matters requiring it. Said board, in the name aforesaid, may sue and be sued; may take, hold, lease, sell, and convey real and personal property, as the interests of the school may require. The members of the board and the clerk thereof shall have the power and authority to administer oaths in proof of claims and against said corporation, and no claim or account, except salaries of teachers and janitors, shall be audited or allowed by the Board of Education unless the correctness of the same shall be verified under oath.

**Sec. 21. Powers of Board.** The Board of Education shall have the power and authority to purchase and sell school house sites and improvements thereon; to construct and erect school buildings and to furnish the same; to establish, locate, and maintain kindergarten schools, common schools, consisting of primary and grammar grades, high schools, and industrial or manual training schools; to establish and

support school libraries; to purchase, exchange, repair and improve the high school apparatus, books, furniture, fixtures and all other school supplies in said schools. It shall supply and loan pupils in the several grades and departments of said schools, except the high school, free of charge, all text books and supplies used by the pupils of said schools; it shall have the power to sell to pupils in the several grades and departments of said schools, at cost, all text books and supplies used by the pupils of said schools; to collect all books and apparatus loaned to the pupils of the public schools of any such school district of the first class, or damages for the loss, injury or destruction of the same: to assign to the State Normal School for the purpose of illustrating instruction in the practice school connected therewith, a sufficient number of pupils of appropriate grades, and re-imburse the State University or State Normal School for the instruction of such pupils at rates per pupil not exceeding the average cost of instruction per pupil in the public schools of the district as ascertained for each year; to do all things needful for the maintenance, prosperity and success of the schools, and the promotion of education; to adopt by-laws and rules for the procedure of the Board of Education, and make and enforce all needful rules and regulations for the control and management of the public schools of the district.

**Sec. 22. Restrictions on sale of school property.** No school sites or buildings shall be sold or conveyed by the Board of Education, except on resolution of the board, duly adopted at a regular or duly called meeting, and not then without the affirmative vote of at least two-thirds of all the members of the board.

**Sec. 23. Trustees of former districts to convey property to Board of Education.** Upon the appointment or election and qualification of a Board of Education for any county school district of the first class, the trustees of all school districts formerly existing in said county school district of the first class, shall convey and deliver all the school property in said districts to the Board of Education of said county school district of the first class; and the title of all such property, and all property hereafter acquired for school purposes in said district, shall be conveyed to and vested in said Board of Education, for the use of the district schools of said district; and all rights, claims, and causes of action to or for said property, or the use or income thereof, or for any conversion, disposition or withholding thereof, or for any damage or injury thereto, shall at once vest in the Board of Education of said district, in trust for the use of the district schools of the district, and said board, in the name aforesaid, may bring and maintain actions to recover, protect, and preserve the property and rights of the district schools, and to enforce any contract relating thereto, and in its said name may sue and be sued in any court of law or equity. And all

outstanding debts and obligations of any such school district shall be paid by said Board of Education.

**Sec. 24. Teachers' Examinations.** Examinations for teachers in school districts of the first class shall be conducted in like manner as examinations in other school districts; *provided* that the district superintendent of schools, in counties where there is no county superintendent of schools shall perform the duties in relation to his district, that would otherwise devolve upon the county superintendent of schools.

**Sec. 25. Board to select member of Text book convention.** The Board of Education of the various county school districts of the first class in a county shall select a person not a member of the board, to represent them in the convention called by the State Superintendent to adopt text books for the State, to act as a member of such convention.

**Sec. 26. School property exempt.** All property, real and personal, held by the Board of Education, shall be exempt from general and special taxation, and from all local assessments for any purpose, and shall not be taken in any manner for debt.

**Sec. 27. Districts to receive their proportion of school taxes.** All districts organized under the provisions of this chapter shall receive their pro rata share of any State taxes levied for the support of district schools or any funds that may be realized from any source which under the operation of law are required to be divided pro rata for the benefit of children of school age residing in the State.

**Sec. 28. Board to estimate annual requirements. Tax rate.** The Board of Education shall, on or before the first day of May of each year, prepare a statement and estimate of the amount necessary for for the support and maintenance of the schools under its charge for the school year commencing on the first day of July next thereafter, and for the purchase of school sites and the erection of school buildings, also the amount necessary to pay the interest accruing during such year, and not included in any prior estimate, on bonds issued by said board, also the amount of sinking fund necessary to be collected during such year for the payment and redemption of said bonds; and shall forthwith cause the same to be certified by the president and clerk of said board to the officers charged with the assessment and collection of taxes for general county purposes in the county in which the district is situated, and such officers, after having extended the valuation of property on the assessment rolls, shall levy such per cent as shall, as nearly as may be, raise the amount required by the board, which levy shall be uniform on all property within the said district as returned on the assessment roll, and the said county officers are hereby authorized and required to place the same on the tax roll; *provided*, that districts of the

first class existing at the time of the enactment of this law, and that where districts not existing on the first day of May shall come into existence by the second Monday in July in any year, the time of preparing the statement and estimate above named shall be extended to the third Monday in July; and any levy of special tax that may have been made in any district abolished or superceded by the creation of such new district shall be vacated. Said taxes shall be collected by the County Treasurer as other taxes are collected, but without additional compensation for assessing and collecting, and he shall pay to the treasurer of said board, promptly as collected, who shall hold the same subject to the order of the Board of Education; *provided*, that the tax for the support and maintenance of such schools shall not exceed in any one year five and one-half mills on the dollar upon all taxable property of said district, and shall not exceed one and one-half mills additional on the dollar in one year, to be used exclusively for the purchase of school sites and the erection of school buildings, but in case any funds collected for support or maintenance are not used within the school year for which they were raised, they may be used for building purposes; *provided further*, that the Board of Education in each county school district of the first class shall also, on or before the first Monday in May of each year, furnish the Board of County Commissioners an estimate in writing of school funds needed in their districts for the ensuing year for the payment of teachers, of members of the board of examiners, of expenses of the county institute, of compensation for superintending schools not to exceed the amount fixed by the Board of County Commissioners as County Superintendent's salary for the whole county, as allowed by law (said amount to be distributed pro rata, as are school funds, to the districts in the county when there are district superintendents, but no County Superintendent), and contingent expenses for the superintendency not to exceed the district's pro rata of one thousand dollars per annum in the county outside of incorporated cities, which estimate may be taken by the Board of County Commissioners in connection with that of the County Superintendent as required by section eighteen hundred and sixty-four, Revised Statutes of Utah, 1898, or in lieu thereof when there is no County Superintendent, as a basis for the county school tax levy provided for in section eighteen hundred and sixty-five, Revised Statutes of Utah for 1898.

**Sec. 29. County Treasurer to pay over taxes.** The respective County Treasurers shall pay over to the Board of Education as fast as collected or realized its proportionate amount of delinquent taxes, interest, and costs on all tax sales heretofore or hereafter made.

**Sec. 30. Special school taxes for buildings.** The Board of Education may, at the annual school election or at a special election, in its

discretion, submit to the voters of the district the question of levying a special tax not to exceed two per cent of all taxable property in the district, for one or more years, to buy sites, build and furnish school houses, or improve the school property under its control. If the voters declare in favor of such tax, it shall be levied and collected as other school taxes, and the Board of Education may apply any money available, raised from taxation, to the building of or the improving of the school property under its charge. The Board of Education shall give such reasonable notice of such submission as it may deem proper; and if submitted at a special election, may follow the procedure, so far as applicable, for the issuance of bonds. The certification and collection of the special tax provided for in this section, shall be as directed in sections eighteen hundred and seventy-two and eighteen hundred and seventy-four, Revised Statutes of Utah, 1898, relating to special school taxes.

**Sec. 31. Special election for bonding district.** The Board of Education may, when in its judgment it is advisable, or shall, when petitioned by a majority of the resident taxpayers of the school district, as appears by the county assessment roll of the last preceding year, call an election in each school representative precinct of the district and submit to the taxpayers of the district whether bonds of such district shall be issued and sold for the purpose of raising money for purchasing school sites, for building or purchasing one or more school houses, and supplying the same with furniture and necessary apparatus, for improving the grounds, and for the refunding and redemption of all or any portion of any bonds outstanding in any such district.

**Sec. 32. Election, how called.** The election provided for in the preceding section shall be called by publishing, for not less than ten days, a notice signed by the president and clerk of the Board of Education, in a newspaper having a general circulation in the school district, and by posting said notice at the polling places in each school representative precinct of the district for the same length of time next preceding said election. The Board of Education, before any notice is published or posted, shall appoint three electors in each school representative district to conduct the bond election herein provided for, who shall take and subscribe an oath of office, and who shall make returns thereof to the board as herein provided. Such notice shall contain:

1. The time and place of holding the same.
2. The names of the judges at each polling place to conduct the same.
3. The time during which the polls will remain open.
4. The amount and denomination of the bonds, the rate of inter-



est, and the number of years, not exceeding twenty, the whole or any part of said bonds are to run. In case it shall become necessary in a county school district of the first class to incur additional indebtedness as provided in section eighteen hundred and seventy-six, Revised Statutes of Utah, 1898, the election therefor shall be called and conducted as prescribed in this section, except that the fourth sub-division required herein in the notice shall specify, instead of the amount and denomination of the bonds, etc., the amount of indebtedness which the board proposes to incur or create, and for what purposes.

**Sec. 33. Form of ballot.** The ballot used at such election shall be furnished by the Board of Education, and shall express upon its face the questions the board desires to submit to the taxpayers. No informalities in conducting such election shall invalidate the same, if it shall have been otherwise legally conducted.

**Sec. 34. Qualifications of electors.** Every registered voter residing in any school representative district in which any election is held for the purpose of determining the question of issuing bonds for such school district, and who shall have paid a property tax therein in the year preceding such election, shall be entitled to vote at any such election. Challenges for cause by any qualified voter shall be allowed at such election, and promptly decided by the judges conducting the same.

**Sec. 35. Canvass of votes cast. Statement to be filed with the County Clerk.** Immediately after the closing of the polls, the persons appointed to conduct the same shall proceed to count and canvass the ballots cast at such election, and make returns thereof to the Board of Education; and said board shall, within five days after said election, meet and canvass said returns, and if a majority of the ballots cast at said election are in favor of issuing such bonds, then the board shall cause an entry of that fact to be made upon its minutes, and shall immediately file with the clerk of the county in which such school district is situated, a certified copy of the order of the Board of Education, and certified copies of the notices published or posted, calling such election, with an affidavit showing when and where said notices were published or posted, and that they were published or posted as required by law and the order of the Board of Education. The board shall also file with said clerk a statement showing the approximate number of inhabitants and the value of taxable property in the district; that the amount of bonds proposed to be issued, including existing indebtedness, does not exceed two per cent of the value of taxable property in the district; that the election at which the question of issuing bonds was submitted was lawfully called and held; that all proceedings in relation to the proposed issue of bonds in said district were lawfully conducted, and that such bonds may be lawfully issued; and thereupon said Board of Education

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shall be and it is hereby authorized and directed to issue the bonds of such district to the number and amount voted for at such election. The money for the redemption of said bonds, and the payment of the interest thereon as it shall become due, shall be raised by taxation upon the taxable property of said district; *provided*, that the total amount of bonds so issued, including existing indebtedness, shall not exceed four per cent of the taxable property of the district as shown by the last equalized assessment roll for county purposes.

**Sec. 36. Denomination of bonds. Interest. Time.** The denomination of the bonds which may be issued under the provisions of this chapter shall be fifty dollars or some multiple of fifty, not exceeding one thousand dollars, and shall bear interest of not exceeding the rate of five per cent per annum, payable semi-annually or annually, in accordance with interest coupons which shall be attached to said bonds, and shall be made payable not more than twenty years from their date. The Board of Education may reserve the right to redeem such bonds, or any of them, at any time after five years from their issue. Any bonds heretofore authorized by vote of any school district, remaining unsold, may, in the discretion of the board, be hereafter issued to bear any rate of interest not exceeding five per cent per annum payable annually or semi-annually.

**Sec. 37. Form of bonds.** Whenever any bonds are issued under the provisions of this chapter they shall be engraved, lithographed, or printed on bond paper, and shall state upon their face the date of their issue, the amount of bond, for what purpose issued, also the time and place of payment and rate of interest to be paid. They shall have printed upon the margin, the words "Authorized by Act of the Legislature of the State of Utah, A. D. 1897, and all Supplemental and Amendatory Acts," and upon the back of each bond shall be printed a certificate, signed by the County Clerk, in substantially the following form: "I certify that the within bond is issued in accordance with law, and is within the debt limit permitted by the Constitution and laws of the State of Utah, and in accordance with a vote of the tax-payers of ..... School district of ..... County, State of Utah, at an election held on the ..... day of ....., 1., authorizing bonds to the amount of ..... dollars." They shall be signed by the president and clerk of the Board of Education and countersigned by the treasurer thereof, and there shall be entered in a book to be kept by the clerk for that purpose, the number, date, and denomination of the bonds sold and the date when the same shall become due.

**Sec. 33. Board may sell bonds.** Whenever any bonds are issued under the provisions of this chapter, the Board of Education shall have authority to negotiate and sell such bonds to the highest bidder. No con-

tingent bid shall be received, and every bid shall be accompanied by a certified check of five per cent as a forfeit payable to the order of the Board of Education. The board may reject any or all bids. The proceeds shall be used exclusively for the purpose for which they are issued.

**Sec. 39. Bonds, how cancelled.** Whenever any of the bonds of a school district shall have been redeemed or purchased by the Board of Education, they shall be cancelled by writing or printing in red ink across each bond and coupon the words, "Paid and cancelled;" and the date of payment and amount paid shall be entered in the clerk's register against the number of the bond, and the bond and coupons so cancelled shall be filed in the office of the clerk of the board and preserved in a book to be kept for that purpose. Any bond or bonds heretofore or hereafter issued by any Board of Education or school district may be refunded at any time by such board or school district when a lower rate of interest or better terms can be obtained, and the provisions hereof as to elections shall not apply.

**Sec. 40. Interest and sinking fund.** The Board of Education, in its annual estimate and levy provided for in this chapter, shall include an amount sufficient to pay the interest as the same accrues on all outstanding bonds issued by the board, and also to create a sinking fund of two per cent of the par value of outstanding bonds for the redemption of said bonds, and shall cause a tax to be levied and collected as provided for in this chapter, and such money shall remain a specific fund, and shall not be appropriated or used for any other purpose than is hereinafter provided.

**Sec. 41. Investment of sinking fund.** The moneys levied and collected for creating a sinking fund for the redemption of the bonds issued by the Board of Education shall be used as follows: After retaining an amount sufficient to pay the principal of the bonds maturing during the year, the board shall, with the surplus of the sinking fund, invest the same in bonds of the State of Utah, or of any school district, town, city or county thereof, or of the United States, on the best terms to be obtained until such time as it may be needed to purchase any outstanding bonds that may be offered, or until the maturity of any such bonds.

**Sec. 42. Bonds a lien on property of district.** Bonds issued under the provisions of this chapter shall be a lien upon the taxable property of the school district issuing them, and when the Board of Education neglects or refuses to levy a tax in accordance with law to meet the outstanding bonds or the interest thereon, the Board of County Commissioners of the county within which such district is situated, shall levy such tax and apply the money thus collected to the payment of such bonds and the interest due thereon.

**Sec. 43. Board shall advertise for bids for building school houses.** Whenever any school house is to be built, the Board of Education shall advertise for at least ten days in some newspaper published in the county for sealed proposals for building such school house in accordance with the plans and specifications which shall be furnished by the Board of Education at its office or at the office of the architect, stating in such advertisement or notice the place where and the day and hour when all proposals will be opened, and reserving the right to reject any and all proposals, and shall require a certified check of not less than five percent of the amount of the bid to accompany the same, which check shall be made payable to the order of the Board of Education, and the check of the successful bidder shall be forfeited in case he fails or refuses to enter into the contract and furnish the bond required. At the time and place specified in said notice, the board shall meet and publicly open and read all the proposals which have been received, and if satisfactory bids have been received, shall award the contract to the lowest responsible bidder, and shall require of such bidder or contractor a bond in one-half the amount of the contract, conditioned that he will properly perform its conditions in a faithful manner and in accordance with its provisions. In case none of the proposals are satisfactory, all shall be rejected and said board shall advertise anew in the same manner as before. It may require in the contract to be executed that at least twenty per cent of the contract price may be withheld until the building is completed and accepted by the board. But if after twice advertising, as provided herein, no satisfactory bid is received, the board may proceed under its own directions to erect the building required, or in case of a building not exceeding five thousand dollars in cost, if no satisfactory bid is received at the first notice, the board may proceed with the construction as it may determine. Provided that no member of the Board of Education shall be financially interested in the contract, directly or indirectly, in the erection of any school building.

**Sec. 44. "Parental schools."** The Board of Education of any county school district of the first class, or the Board of Education of any two or more such districts, under a contract to be approved by each of such boards, may provide for the establishment and maintenance of "Parental schools," and for the support and education of the inmates thereof, conformably with the provisions of this chapter.

**Sec. 45. Truants may be committed to parental schools.** Any child between the ages of eight and fourteen years residing within the district or districts maintaining such a school, adjudged guilty of being a habitual truant, or of wandering about in the streets and public places of said district or districts without lawful employment or business, may be committed to the parental school provided for the purpose, for a term not extending beyond the age of fourteen years.

**Sec. 46. Truant may be released.** Any child committed as provided in the next preceding section may be released from confinement at such school, either conditionally or absolutely, before the expiration of the term of committment, in accordance with the by-laws established by the Board or Boards of Education maintaining the same.

**Sec. 47. Neglected children may be committed to parental school.** Children under sixteen years of age who by reason of neglect, crime, drunkenness, or other vices of parents, or by reason of orphanage, are suffered to grow up without salutary parental control and education, or in circumstances encouraging them to lead idle and dissolute lives, may be committed to the proper "parental school" for a term not extending beyond the age of sixteen years.

**Sec. 48. How discharged.** When the parents of a child committed under the next preceding section have reformed and are leading orderly and industrious lives, and are in a condition to exercise salutary control over such child, and to provide him with proper education and employment; or when, said parents being dead, any person offers to make such suitable provisions for the care, nurture, and education of such child as will conduce to the public welfare, the Board of Education may discharge him to the parents or such other person.

**Sec. 49. District court has jurisdiction.** The district courts of the several counties shall have jurisdiction within their respective counties to enforce the provisions of this chapter, upon such notice to the parents or guardians of the children whom it is proposed to commit to parental schools as the court may deem just and proper.

**Sec. 50. Parents pay cost of children in parental school.** Any Boards or Board of Education maintaining a parental school in accordance with section forty-nine of this chapter, shall estimate and determine as near as may be the average actual expense per month of keeping and taking care of the boys and girls who may be committed to the parental school, and the average cost of keeping such boys and girls shall be wholly paid by the parent or guardian of each boy or girl committed to the school, unless for good cause said Board or Boards of Education shall otherwise order and direct. The Board of Education of the district in which the parent or guardian of any such committed boy or girl resides may bring suit to enforce this provision.

**Sec. 51. Other children may be received in parental school.** On the tender of a payment which will meet all costs of support at the parental school, the Board or Boards of Education maintaining such school may receive into it on equal terms boys or girls whose residence is in the State outside the district or districts to which the school belongs.

**Sec. 52. Truant officer.** The Board of Education of each county, school district of the first class may appoint and fix the compensation of a truant officer, whose duty it shall be to make complaints and ar-

rests in cases contemplated by this chapter, and to serve legal process issued by courts in pursuance hereof. The sheriff of the county shall make such truant officer a deputy sheriff to serve without pay, so far as the sheriff's office is concerned.

**Sec. 53. County Superintendent's office vacant in certain cases.** When a county of the first class is so organized as to school districts that there are no such districts therein other than those of cities of the first or second classes and county school districts of the first class on the first Monday in August of any year in which there is a general election for county officers, then no County Superintendent of Schools shall be elected for such county at that election, and the office shall become and remain vacant for the succeeding term or terms, as the case may be, except that in the event of there being no election for County Superintendent of Schools in the year nineteen hundred and six, the present incumbent shall hold office till the first day of July, nineteen hundred and seven; but the Board of County Commissioners shall fix the salaries therefor, as required by law, to be distributed pro rata among School Superintendents in county school districts of the first class, as provided in section forty-two of this chapter, as compensation for services in whole or in part, as such compensation may be fixed by the Board of Education of the district, no other compensation than that fixed by the Board of County Commissioners to come out of the general school fund of the county. Where there is no County Superintendent of Schools under the foregoing provision, then the County Auditor shall make to the school districts in the county the apportionment of school funds provided for in section eighteen hundred and sixty-seven, Revised Statutes of Utah for 1898, and the County Treasurer shall pay such apportioned funds to the school district treasurers upon the warrants of the County Auditor, who shall make report thereof to the Board of County Commissioners, and to the State Superintendent, as provided by law. When there is no County Superintendent, the Board of County Commissioners shall arrange the county teachers' institutes under the regulations in section seventeen hundred and ninety-three, and designate the school district superintendent in the county which shall take charge thereof.

**Sec. 54. Registration lists to be furnished.** It shall be the duty of the County Clerk to furnish to Boards of Education in county school districts of the first class, at least five days previous to the day of election for members of the said board, a certified copy of the registration list, showing the names of all registered voters residing in the election district covered by such school districts.

**Sec. 55. Repeal.** All acts and parts of acts in conflict with the provisions of this chapter, so far as they relate to county school districts of the first class as herein described, are hereby repealed.

Approved this 9th day of March, 1905.

## CHAPTER 108.

## WATER RIGHTS AND IRRIGATION.

**An Act** codifying and revising certain laws providing for determining and recording water rights; regulating the diversion, use and apportionment of water; prescribing the manner in which water may be appropriated; providing for the appointment of a State Engineer and prescribing his qualifications, powers, duties and compensation; requiring claimants to the use of water to file statement of their claims, and declaring the forfeiture of rights for failure to file such statements; providing for the taking of testimony and the entering of decrees determining rights to the use of water and permitting appeals; requiring certificates of water rights to be issued, filed and recorded; directing that the State shall be divided into water divisions and districts, and that superintendents and supervisors shall be appointed to apportion the water; requiring applications for the apportionment of water to be filed, and permitting the construction of diverting works; providing for the issuance and recording of certificates of appropriation; declaring water to be public property, subject to existing rights; fixing units of measurement of water; establishing basis, measure and limit of right; providing for the abandonment of use, change in manner or place of use, and commingling and recovery of water; defining rights of appropriators; permitting irrigation companies to take stock in similar companies; providing for the acquisition of rights of way, and the use and enlargement of existing canals; directing that canals, bridges and crossings be kept in repair; declaring when water rights are appurtenant to land, and how transfers are to be made and recorded; fixing penalties for violations of this act; providing legal advisers for State Engineer; establishing fees and prescribing how they shall be collected and paid to the State; providing for the payment of fees, costs and expenses under this act; prescribing who may be parties in actions concerning water, preserving the existence and providing for the dissolution of irrigation districts; repealing chapter 100, laws of Utah 1903, and all other laws, and parts of laws in conflict with the provisions of this act; but preserving vested rights to the use of water, and providing that any right initiated under the laws repealed by this act or by said chapter 100, may be completed and perfected; providing that water commissioners heretofore appointed shall continue to perform their duties until superseded by division superintendents and district supervisors, and that similar water commissioners may be appointed if necessary.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Office of State Engineer created. Powers and duties of.** There shall be a State Engineer, who shall be appointed by the Governor of the State and be confirmed by the Senate. He shall hold his office for the term of four years and until his successor shall have been appointed and qualified. He shall have general supervision of the waters of the State and of their measurement, apportionment and appropriation, and of all division superintendents and district supervisors. He shall have power to make and publish such rules and regulations as he may deem necessary from time to time, to fully carry out the provisions of this act and secure the equitable and fair apportionment of the water according to the respective rights of appropriators. No person shall be appointed to the office of State Engineer who has not such theoretical knowledge and practical experience and skill as shall fit him for the position.

**Sec. 2. Salary and allowances.** The State Engineer shall receive a salary of three thousand dollars per annum, payable in quarterly installments by the State Treasurer upon warrants drawn by the State

**Article.** When the State Engineer is called away from his office on official business, he shall be entitled to his actual travelling expenses, which shall be paid out of any money appropriated for that purpose, on the certificate of said State Engineer, approved by the State Board of Examiners.

**Sec. 3. Office at capital.** The State Engineer shall keep his office at the State capital.

**Sec. 4. Oath and bond.** Before entering upon the duties of his office, the State Engineer shall take and subscribe an oath before some officer authorized by the laws of the State to administer oaths, to faithfully perform the duties of his office. He shall file with the Secretary of State said oath and his official bond in the penal sum of five thousand dollars, with not less than two sureties, to be approved by the State Board of Examiners, and conditioned for the faithful discharge of the duties of his office, and for the delivery to his successor or other officer appointed by the Governor to receive the same, all moneys, books and other property belonging to the State then in his hands or under his control, or with which he may be legally chargeable as such officer.

**Sec. 5. Report to Governor.** The State Engineer shall prepare and render to the Governor biennially, and oftener if required, full and true reports of his work relating to the matters and duties devolving upon him by virtue of his office, which biennial report shall be delivered to the Governor on or before the 31st day of December of the year preceding the regular session of the Legislature. He shall become conversant with the water ways of the State, and its needs as to irrigation matters, and in his reports to the Governor he shall make such suggestions as to the amendment of existing laws or the enactment of new laws as his information and experience shall suggest. He shall keep on file in his office full and proper records of his work, including all facts, notes, computations and facts made or collected by him, all of which shall be duly certified by him, and be part of the records of his office and the property of the State. All records, maps and other papers received and filed in the office of the State Engineer shall be open to the public during business hours, and copies thereof, certified by said engineer, shall be furnished on payment of the fees provided for by this act.

**Sec. 6. Duties of Engineer. May be co-operate with National Government.** The State Engineer shall make a complete hydrographic survey of each river system and water source of the State, beginning at the mouth of those streams and sources which are most used for irrigation, and from the data so obtained the State Engineer shall construct maps, which shall exhibit the essential facts relating to the supply, diversion and use of the water of each of such river system or water sources. He shall also collect such other facts as will, in his judgment,



aid in ascertaining the existing rights to the use of the water and in determining the volume of the surplus or unappropriated water, if any, of each of such streams or sources. He shall have general supervision of the appropriation of all surplus or unappropriated water in the manner provided by law. Said surveys and collections of facts shall include the location of all suitable sites for dams and reservoirs, and a determination of the approximate capacity and cost of each. In doing such work, the State Engineer may co-operate with the agencies of the National Government, engaged in similar work within the State, for the purpose of interchanging information and avoiding the unnecessary duplication of work. The State Engineer shall have a seal which he shall affix to all certificates issued from his office.

**Sec. 7. Notice to be given.** Before commencing the hydrographic survey of any river system or water source, the State Engineer shall cause notice to be published in some newspaper having general circulation on said river system or water source, stating the time and place of beginning said survey, and said notice shall be published continuously in said newspaper for a period of not less than fifteen days immediately prior to the commencement of said work.

**Sec. 8. Must examine plans of dams exceeding five feet in height, and inspect dams.** Duplicate plans, drawings and specifications for any dam above five feet in height, across the natural channel of a running stream, or of any other dam intended to retain water above ten feet in height, shall be submitted to the State Engineer for his approval, who shall examine such plans, drawings and specifications, and, if he approves the same, he shall return one copy of each such plans, drawings and specifications, with his approval, to the party or parties submitting the same and file the other in his office. If the State Engineer disapproves any of such plans, drawings or specifications, he shall return the same, with his reasons for such disapproval. The State Engineer shall have authority to keep an inspector on any such dam during the construction thereof, and to see that the work is done in accordance with the plans, drawings and specifications, and the State Engineer may require the parties constructing the same to make any additions or alterations during the construction which he considers necessary for the security of the work, the safety of persons or the protection of property. Any person, corporation or association beginning the construction of any such dam before the plans, drawings and specifications shall have been submitted to and approved by the State Engineer, or proceeding with such work in the absence of an inspector appointed by said engineer, or who shall fail to comply with any of the requirements made by him in pursuance of this section, shall be guilty of a misdemeanor.

**Sec. 9. Dam or works examined, when.** Should any person, corporation or association residing on or owning land in the neighborhood of any completed dam or diverting works, apply to the State Engineer in writing, requesting an examination of such dam or works, the State Engineer may order an examination thereof. Before doing so, he may require the applicant for such examination to deposit a sum of money sufficient to pay the expenses of the examination, and in case the application appears to him not to have been justified, he may cause the whole or part of such expense to be paid out of such deposit. In case the request appears to the State Engineer to have been justified, he may require the owner of the works to pay the whole or any part of the expenses of such examination.

**Sec. 10. May inspect dams and require alteration.** The State Engineer shall have authority to examine and inspect, during construction, any ditch or other diverting works, and, at the time of such inspection, he may order the parties constructing the same to make any addition or alteration which he considers necessary for the security of such works, the safety of persons or the protection of property. Any person refusing or neglecting to comply with such requirements of the State Engineer shall be guilty of a misdemeanor. But the provisions of sections 8, 9 and 10 shall not apply to works constructed by the National Government.

**Sec. 11. On completion of survey, statement to be filed.** When the State Engineer has completed the hydrographic survey of any river system or water source, he shall file a written statement with the clerk of the district court of the county in which the same is situated, or if the system or source extends into more than one county, the statement shall be filed in any county which embraces any part of such river system or water source that the State Engineer shall select as most convenient for the water users of the system or source. Said statement shall set forth the fact of the completion of such survey, the names and postoffice addresses of all persons, corporations and associations using water of said river system or water source, so far as the same are known to the State Engineer, and shall contain such other facts and information as he may deem necessary. On the filing of such statement, the district court in the county where the same is filed shall have exclusive jurisdiction to determine all water rights on said river system or water source, in accordance with the provisions of this act.

**Sec. 12. Notice to be given. Claimants to file statements.** Within thirty days after the filing of the statement mentioned in the last preceding section, the clerk of the court in which the same shall be filed must give public notice that all persons claiming the right to the use of any water of said river system or water source must file a written statement with the clerk of said court, within six months after the first publication of

said notice, setting forth their respective claims to the use of such water, which notice shall be published at least once a week for three successive months in some newspaper printed and published within the boundaries of said river system or water source and having a general circulation therein; or, if there be no such newspaper, then it shall be published in some newspaper printed and published in this State and having a general circulation on said river system or water source. The clerk of said court shall also mail, by registered letter, to each of the persons, corporations or associations whose names and addresses are given in such statement filed by the State Engineer, a copy of said notice, and a blank form on which said claimant shall present, in writing, as provided in the next succeeding section, all the particulars relating to the appropriation of the water of said river system or water source to which he lays claim.

**Sec. 13. Application for water, how made.** Each person, corporation or association claiming the right to use any water of said river system or water source, shall, within six months after the first publication of the notice provided for in the last preceding section, file in the office of the clerk of the court giving said notice, a statement in writing, which shall be signed and verified by the oath of the claimant, and shall include as near as may be the following: The name and post-office address of the person, corporation or association making the claim; the nature of the use on which the claim of appropriation is based; the flow per second of water used and the time during which it has been used each year; the name of the stream or other source from which the water is diverted; the place on such stream or source where the water is diverted, and the nature of the diverting works; the date when the first work for diverting the water was begun, and the nature of such work; the dimensions, grade, shape and nature of the diverting channel, as originally constructed; the date when the original diverting channel was completed; the date when the water was first used, the flow per second, and the time during which the water was used the first year; the date and nature of each subsequent change made in the original diverting channel; the flow per second of the water used and the time it was used each year between each of the changes so made, and the dimensions, grade, shape and nature of the present diverting channel; the place where and the manner in which the water was first used; the nature of each subsequent change in the place or manner of use, and the place and manner of present use; and such other facts as will clearly define the extent and nature of the appropriation claimed. If the water claimed to have been appropriated is used for irrigation, the statement shall show, in addition to the above required facts, the area of land irrigated the first year and each subsequent year; the total area at present irrigated, and its location in the section, township and

range wherein it is situated; the character of the soil and the kind of crops raised during the first year of use and the first year after each subsequent change of channel, and during the last year in which the water was applied.

If the water claimed to have been appropriated is used for developing power, the statement shall show, in addition to the above required facts, the number, size and kind of water wheels employed; the head under which each wheel is operated; the extent of the power produced, and the purposes for which and the places where it is used, and the point where the water is returned to the natural stream.

If the water claimed to have been appropriated is used for mining, the statement shall show, in addition to the above required facts, the name of the mine and the mining district in which it is situated; the nature of the material mined, and the place where the water is returned to the natural channel of the stream. Within sixty days after the expiration of the six months allowed for filing statements of claims, the State Engineer shall tabulate the facts contained in the different statements filed; a copy of said tabulation shall be immediately filed in the office of the clerk of said court, and a copy in the office of the county recorder of each county which embraces any part of said river system or water source.

**Sec. 14. Statements to be filed. Failure to make statement a bar.** The clerk of said court shall enter the statement in a book to be kept for that purpose and shall file and preserve the same in his office, noting the date of filing. The filing of each statement shall be considered notice to all persons of the claim of the party making the same, and any person failing to make and deliver such statement of claim to the clerk of the court within six months after the first publication of the notice provided for in the last preceding section, shall be forever barred and estopped from subsequently asserting any rights theretofore accrued to the use of water of said river system or water source, and shall be held to have forfeited all rights to the use of said water theretofore claimed by him; provided, that any claimant upon whom no other service of said notice shall be made than by publication in the newspaper may apply to the court for permission to file a statement of claim after the time therefor has expired, and the court or judge thereof may extend the time for filing said statement not exceeding one year from the first publication of said notice, but, before said time is extended, the court shall give notice by publication in some newspaper having circulation throughout said river system to all other persons interested in the water of that river system or water source, and shall make it appear to the satisfaction of the court that, during the pendency of the proceedings, all persons interested therein have had time to appear and file a

statement and make proof of his claim; and all parties interested may present affidavits as to the matter of actual notice of application.

**Sec. 15. Referee to be appointed.** At the expiration of six months after the first publication of the aforesaid notice, the district court of the county in which said statements of claim have been filed may appoint a referee or referees, not exceeding three, to take testimony and determine the rights of said claimants to the use of the water of said river system or water source, as in other equity cases. Any claimant may object to the appointment of any person as referee for the same cause for which challenges for cause may be taken to a petit juror in the trial of a civil action. Such objection must be heard and disposed of by the court, or a judge thereof, and affidavits may be read and witnesses examined concerning the same.

**Sec. 16. Oath. Power of referee.** The referee, or referees, before proceeding to hear any testimony, must be sworn well and truly to hear and determine the facts and issues referred to them, and true findings render according to the evidence, and he or they shall have power to administer oaths to all witnesses produced before him or them.

**Sec. 17. Statements in place of pleadings. Maps and records of engineer's office evidence.** The statements filed by the claimants shall stand in the place of pleadings, and issue may be made thereon. They shall unless the court determines the matter itself without a reference be referred and delivered to the referee or referees, with all other files and papers relating to water claims of said river system or water source, including the statement and map filed by the State Engineer, who shall, before the expiration of the six months allowed for filing statements of claim, as aforesaid, file with the clerk of said court, and with the county recorder of each county which embraces any part of said river system or water source, a copy of the map of said river system or water source, made in pursuance of his survey thereof; and whenever requested so to do, the State Engineer shall furnish the court or referee or referees with any information which he may possess, or copies of any of the records of his office which relate to the water of said river system or water source, and in all proceedings for the determination of the rights of claimants to the water of said river system or water source the said maps and records, or certified copies thereof, shall be competent and prima facie evidence of the facts stated therein or delineated thereon.

**Sec. 18. Amendments permitted. Powers of referee.** The referee or referees shall have power to allow amendments to any statement or pleading, as the court might do, and upon the same terms and with like effect. He or they shall have power, and it shall be the duty of the court or referee or referees to take testimony at such times and places within the boundaries of the river system or water source as may be convenient to the respective claimants interested, and the court or referee or referees shall determine the rights of all said claimants as herein-

after the trial. The court, referee or referees shall give not less than fifteen days notice to the claimants, stating when and where he or they will begin to take testimony; said notice shall be published in some newspaper having general circulation on said river system or water source, and on the date named in the notice, the court, referee or referees shall begin to take the said testimony, and shall continue the same until all the testimony relating to claims to water of said river system or water source is conducted; provided, that a notice shall be served on each claimant at least fifteen days before the testimony is taken upon his or its claim, stating the time and place, when and where the testimony will be taken, and said notice shall be served in the same manner as a summons issued out of the district court. But he or they may grant adjournments from time to time as occasion may require, and during all of said time the map or maps and other records furnished by the State Engineer, as heretofore provided, shall be open to the inspection of all parties interested.

**Sec. 19. Any interested party may contest.** Any person, corporation or association owning any irrigation works, or claiming any interest in the water of said river system or water source, may contest the rights of any person, corporation or association who have filed statements of claim for any water of said river system or water source, by filing a written statement of the grounds of their contest with the clerk of said court, within thirty days after the filing of the tabulation of facts provided for in section 13; which statement of contest shall be verified by the oath of the contestant. Upon the filing of said contest, the referee or referees shall fix the time for hearing the same, which date shall be not less than thirty days nor more than sixty days from the time when the notice is served on the party, which notice and the return thereof shall be made in the same manner as summons is served in civil actions in the district courts of this State.

**Sec. 20. Subpoenas for witnesses.** The referee, or referees shall have power to issue subpoenas to witnesses which shall be served in the same manner as subpoenas issued out of the district court, and all witnesses so subpoenaed shall attend and testify and produce books and papers and documents, as required, before such referee or referees, and said witnesses shall receive the same fees as in civil cases in the district court, to be paid by the party or parties against whom the contest shall be finally determined.

**Sec. 21. Referees' findings.** On the completion of the evidence, the referee or referees shall state, in writing, the facts found by him or them, as to each claim submitted, and the conclusions of law in relation thereto, separately, and shall report the same, with a form of decree, to the district court; and said court may review said report and enter decree thereon, or set aside, alter or modify the same and enter decree

thereon so altered or modified, and, when necessary, may require the referee or referees to amend his or their reports. All the testimony taken by any referee or referees shall be stenographically reported, and the same, together with all other evidence in the matter, shall be transmitted to, preserved and filed in the office of the clerk of said district court; with the report of such referee or referees. Notice of the filing of the report of the referee or referees shall be given by the clerk, as the court may direct, and exceptions to the findings and report of the referee may be taken by the parties, as the court shall prescribe by rule.

**Sec. 22. Effect of decree.** The decree shall determine and establish the rights of the several claimants to the use of the water of said river system or water source, and among other things shall set forth the name and postoffice address of the person, corporation or association entitled to the use of the water; the quantity of water in acre-feet or the flow of water in second feet to be used; the purpose for which the water is to be used; the time during which the water is to be used each year; the name of the stream or other source from which the water is diverted; the place on the stream or other source where the water is diverted; the priority number of the right; the date of the right, and such other matter as will fully and completely define the right of said person, corporation or association to the use of the water.

**Sec. 23. Decree may be appealed from.** The decree so entered by the district court may be appealed from to the supreme court, in like manner as from decrees and judgments in other cases; *provided*, that such appeal shall be taken within six months after the entry of said decree, and all proceedings on appeal shall be conducted according to the provisions of the code of Civil Procedure, and the practice on appeals from the district court to the supreme court.

**Sec. 24. Certificate of water right to be issued.** If no appeal is taken from said decree within six months after the same has been entered, or if the case is appealed, within thirty days after the final decree is entered, it shall be the duty of the clerk of the court making said decree to issue to each person, corporation or association having been awarded the use of water by said decree, a certificate in duplicate, attested under the seal of the court, setting forth the substance of said decree, as specified in section 22. One copy of said certificates shall be transmitted, in person or by registered mail, to the appropriator, who shall, within thirty days, have the same recorded in the office of the county recorder of the county in which the water is diverted from its natural channel, and the other shall be delivered to the State Engineer and filed in his office as part of the records thereof. The letter "A" shall be prefixed to the priority number of each certificate so issued to distinguish it from certificates issued by the State Engineer.

**Sec. 25. Proceedings when judge or referee is claimant.** If the referee shall be a claimant to any water of said river system or water source, all testimony and evidence pertaining to his claim shall be taken by the district court of the county in which the statements are filed; and if the district judge is a claimant of any of the water of said river system or water source, he shall file his statement in the district court of the adjoining district, and a copy of the statement in the court of his own county. In such case the court of the adjoining district shall receive and act upon the referee's report and enter decree in the matter.

**Sec. 26. Water divisions and districts.** To enable an equitable and orderly apportionment of the water to be made among the several persons, corporations and associations, according to their respective rights, the State shall be divided into water divisions by the State Engineer, who shall subdivide the same into districts, which shall be so constituted as to secure the best protection to the water users and the most economical supervision on the part of the State. Said water divisions and districts shall be created from time to time, as necessity therefor arises. The divisions shall be designated by names, and the districts by numbers.

**Sec. 27. Superintendents and supervisors.** There shall be a superintendent of each water division, who shall be appointed by the State Engineer with the consent of the Governor, and shall hold his position during the pleasure of the Engineer. There shall be a supervisor for each water district appointed by the Board of County Commissioners of the county in which he serves, who shall hold his position during the pleasure of said board.

**Sec. 28. Duties of superintendent.** The superintendent of each water division shall have control of the district supervisors and of the apportionment of the water in the several districts of his division, under the direction of the State Engineer. He shall execute the laws of the State, and enforce the regulations of the State Engineer relative to the distribution of water, and perform such other duties as shall be assigned to him by the State Engineer, under whose general supervision he shall act.

**Sec. 29. Duties of supervisor.** The supervisor of each district shall apportion the water in the natural stream or streams of his district, among the several ditches taking water therefrom, according to their respective rights, under the direction of the superintendent of his division. He shall so apportion, regulate and control the use of the waters of all streams within his district as will prevent waste.

**Sec. 30. Assistants to supervisors.** Each supervisor shall have power, in cases of emergency, with the consent of the superintendent of his division, to employ suitable assistants to aid him in the discharge



of his duties. The employment of all such assistants shall terminate when the emergency ceases to exist, or when directed by the superintendent of the division.

**Sec. 31. Appeal from superintendent or supervisor to engineer.** Any person who may deem himself injured or discriminated against by the enforcement of any rule or regulation; or by act of a division superintendent or district supervisor, may apply to the State Engineer for relief by filing with him a statement of the manner in which he is injured or discriminated against.

**Sec. 32. Compensation of superintendent.** Each division superintendent shall receive from the State such compensation as shall be fixed by the State Engineer, and the same shall be determined with reference to the extent and character of the service performed by each.

**Sec. 33. Compensation of supervisor.** Each district supervisor shall keep a true and just account of the time spent by him in performing his duties, stating the time spent in each county, respectively, into which his district may extend, and shall present a true copy thereof, verified by oath, to the Board of County Commissioners of the county in which the work may have been done. And the said Board of County Commissioners shall, upon approval thereof by the superintendent of the water division, allow him the sum of three dollars per day for each day he shall have been actively employed, to be paid by the county in which the work has been performed. He shall, in like manner, keep and report the time of all assistants employed in his district which when approved in the manner aforesaid, shall be paid by the Board of County Commissioners of the county in which the work was done, at the rate of two dollars per day.

**Sec. 34. Rights to unappropriated water.** Rights to the use of any of the unappropriated water in the State may be acquired by appropriation, in the manner hereinafter provided, and not otherwise. The appropriation must be for some useful or beneficial purpose, and, as between appropriators, the one first in time shall be first in right.

**Sec. 35. Application for unappropriated water.** Any person, corporation or association, to hereafter acquire the right to the use of any public water in the State of Utah, shall, before commencing the construction, enlargement or extension of any ditch, canal or other distributing works, or performing similar work tending to acquire the said right or appropriation, make an application in writing to the State Engineer. Such application shall be upon a blank to be furnished by the State Engineer, and shall set forth the name and postoffice address of the person, corporation or association making the application; the nature of the proposed use for which the appropriation is intended; the quantity of water in acre feet or the flow of water in second feet to

be used, and the time during which it is to be used each year; the name of the stream or other source from which the water is to be diverted; the place on such stream or source where the water is to be diverted, and the nature of the diverting works; and the dimensions, grade, shape and nature of the proposed diverting channel; and such other facts as will clearly define the full purpose of the proposed appropriation. If the proposed use is for irrigation, the application shall show, in addition to the above required facts, the legal sub-divisions of land proposed to be irrigated, with the total area thereof, and the character of the soil. If the proposed use is for developing power, the application shall show, in addition to the above required facts, the number, size and kind of water wheels to be employed; the head under which each wheel is to be operated; the extent of the power to be produced, and the purposes for which and the places where it is to be used; also, the point where the water is to be returned to the natural stream or source. If the proposed use is for mining, the application shall show, in addition to the above required facts, the name of the mine and the mining district in which it is situated; the nature of the material mined, and the place where the water is to be returned to the natural stream or source. The place of diversion and the place of return of the water shall be designated with reference to the United States land corners or mineral monuments, when either the point of diversion or the point of return shall be situated within six miles of the nearest United States land corner.

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Sec. 36. **Action of Engineer thereon.** On receipt of said application, it shall be the duty of the State Engineer to make an endorsement thereon of the date of its receipt, and to make a record of such receipt in a book in his office kept for that purpose. It shall be his duty to examine said application and ascertain if it sets forth all the above required facts, and if not, he shall return the same for correction. The date of such return, with the reasons therefor, shall be endorsed on the application, and a record made thereof in the book kept for recording receipts of applications. Like entries shall be made of the date when corrected applications are received by the State Engineer and of the date when rejected applications are returned to the applicant.

Sec. 37. **Notice of application.** If not corrected as required, no further proceedings shall be had on such application, but when filed in compliance with this act, the State Engineer shall at once, at the expense of the applicant, to be paid in advance, publish in some newspaper having a general circulation within the boundaries of the river system or water source from which said appropriation is to be made, notice of the application showing by whom made; the quantity sought to be appropriated; the stream from which the appropriation is to be made, and at what point on the stream; the use for

which it is to be appropriated, and by what means; which notice shall be published as often as such paper is issued, for thirty days.

**Sec. 38. Protest may be made.** Any person, corporation or association interested may, at any time within thirty days after the completion of the publication of said notice, file with the State Engineer, a written protest against the granting of said application, stating the reasons therefor, which shall be duly considered by said engineer, who shall approve or reject said application.

**Sec. 39. Applications filed and recorded. Action thereon.** All applications which shall comply with the provisions of this act and with the regulations of the State Engineer's office, shall be filed and recorded in a suitable book kept for that purpose; and it shall be the duty of said engineer to approve all applications made in proper form and which are not in conflict with prior applications or where the proposed use will not impair the value of existing rights. But, where there is no unappropriated water in the proposed source of supply, or where the proposed use will conflict with prior applications or with existing rights, it shall be the duty of the State Engineer to reject such application.

**Sec. 40. Proceedings after action.** The approval or rejection of an application shall be endorsed thereon and a record made of such endorsement in the State Engineer's office. The application, so endorsed, shall be returned to the applicant. If approved, the applicant shall be authorized, on receipt thereof, to proceed with the construction of the necessary works and to take all steps required to apply the water to the use named in the application and to perfect the proposed appropriation. If the application is rejected, the applicant shall take no steps toward the prosecution of the proposed work, or the diversion and use of the public water, so long as such rejection shall continue in force.

**Sec. 41. May require additional information.** Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interests, and may require a statement of the following facts: In case of incorporated companies, he may require the submission of the articles of incorporation; the names and places of residence of its directors and officers, and the amount of its authorized and its paid up capital. If the applicant is not an incorporated company, he may require a showing as to the name or names of the party or parties proposing to make the appropriation, and a showing of facts necessary, to enable him to determine whether or not they have the financial ability to carry out the proposed work, and whether or not the said application has been made in good faith.

**Sec. 42. Time for beginning or completing work.** In his en-

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dorsement of approval on any application, the State Engineer shall require that actual construction work must begin within six months from the date of such approval, and that the construction of the proposed works shall be completed within a period of five years from the date of such approval. He may limit the applicant to a less period for the completion of the work and the perfection of the right. The State Engineer shall have authority, for a good cause shown, to extend the time within which any irrigation or other works shall be completed or the appropriation perfected.

**Sec. 43. Aggrieved party may bring action.** Any applicant or protestant, who is dissatisfied with the action of the State Engineer, may bring an action in the district court of the county in which the point of diversion of the water proposed to be appropriated is situated, for the purpose of adjudicating the questions involved between the applicant and protestant. Such action must be brought within sixty days of notice of the action of the State Engineer, and if not brought within that time, the Engineer shall proceed in accordance with the action taken thereon by him. But if such action be brought within said time, notice thereof shall be filed with the State Engineer, and thereafter he shall take no further action upon such application or protest until the rights of the parties shall be determined by mutual agreement among themselves or by the courts. Upon the final determination of the case by the courts, a copy of the decree shall be filed with the State Engineer, and thereupon he shall proceed in accordance with such decree.

**Sec. 44. Upon completion of works proof and map must be filed.** Upon completing the works to divert and appropriate the water in accordance with his application therefor, the applicant shall immediately make proof thereof, by filing in the State Engineer's office, on blanks to be furnished by the State Engineer, a statement descriptive of the work done. Said statement shall be sworn to by the applicant and by two disinterested witnesses and shall be accompanied by a map, profile and drawings, which shall be made on tracing linen and shall show fully and accurately the location with reference to the United States land surveys; the nature and extent of the completed works; the natural stream or other source from which and the place where the water is diverted; the places and manner of crossing or connecting with other works or streams; the ground and grade lines, cross-sections and dimensions of the various forms of the diverting channel; the character of the materials moved and used in construction; the several appliances employed to divert, measure and regulate the water; the character of all structures which cross, support or constitute the diverting channel or any part of it and such other matter as will fully and correctly delineate the work done and conform to the general rules and regulations of the State Engineer's office. The map, profile and

drawings shall each be certified, under oath, by the engineer who has made the same and by the applicant whose works they represent. Said certificates to be substantially of such form as the State Engineer shall by general rule prescribe. No certificates of appropriation, shall be issued by the State Engineer before the proof of appropriation shall have been made in the manner hereinabove described and any person who shall refuse or neglect to make such proof shall be guilty of a misdemeanor. *Provided*, that in case of works constructed by the National Government, the official plans, maps and specifications approved by the proper officer of the reclamation service, shall be accepted as a full compliance with the requirements of this section, relating to maps, profiles and drawings.

**Sec. 45. Certificate of appropriation. Effect of.** Upon it being made to appear to the satisfaction of the State Engineer that any appropriation has been perfected in accordance with the application therefor, it shall be the duty of the State Engineer to issue a certificate, in duplicate, to the party making the same, setting forth the name and postoffice address of the person, corporation or association by whom the water is to be used; the quantity of water in acre feet or the flow of water in second feet; the purpose for which the water is to be used; the time during which the water is to be used each year; the name of the stream or source from which the water is to be diverted; the place on the stream or source where the water is to be diverted; the priority number of the right; the date of the appropriation, and such other matter as will fully and completely define the right of said person, corporation or association to the use of the water. One copy of said certificate shall be filed in the office of the State Engineer, and the other copy shall be delivered to the appropriator and shall within thirty days be recorded by him in the office of the county recorder of the county where the water is diverted from the natural stream or source. The certificate so issued and filed shall be prima facie evidence of the appropriator's right to the use of the water in the quantity, for the purpose and during the time mentioned therein, and shall be evidence of such right. The letter "B" shall be prefixed to the priority number of each certificate so issued to distinguish it from certificates issued by the district courts.

**Sec 46. Priority.** The priority number of such appropriation shall be determined by the date of receiving the written application in the State Engineer's office.

**Sec. 47. Waters public property.** The water of all streams and other sources in this State, whether flowing above or under the ground, in known or defined channels, is hereby declared to be the property of the public, subject to all existing rights to the use thereof.

**Sec. 48. Standard of measurement.** The standard unit of measurement of the flow of water shall be the discharge of one cubic foot per second of time, which shall be known as a second foot; and the standard unit of measurement of the volume of water shall be the acre foot, being the amount of water upon an acre covered one foot deep, equivalent to forty-three thousand five hundred and sixty cubic feet.

**Sec. 49. Beneficial use.** Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this State.

**Sec. 50. Eminent domain.** The use of water for beneficial purposes, as provided in this act, is hereby declared to be a public use. Any person, corporation or association shall have a right of way across and upon public, private and corporate lands, or other right of way, for the construction, maintenance, repair and use of all necessary reservoirs, dams, water gates, canals, ditches, flumes, tunnels, or other means of securing, storing and conveying water for irrigation or for any necessary public use, or for drainage, upon payment of just compensation therefor, but such right of way shall in all cases be exercised in a manner not to unnecessarily impair the practical use of any other right of way, highway, or public or private road, nor to unnecessarily injure any public or private property. Such right may be acquired in the manner provided by law for the taking of private property for public use.

**Sec. 51. Right to enlarge existing canal.** When any person, corporation or association desires to convey water for irrigation or for any other beneficial purpose and there is a canal or ditch already constructed that can be enlarged to convey the required quantity of water, then such person, corporation or association, or the owner or owners of the land through which a new canal or ditch would have to be constructed to convey the quantity of water necessary, shall have the right to enlarge said canal or ditch already constructed, by compensating the owner of the canal or ditch to be enlarged, for the damage, if any, caused by said enlargement; *provided*, that said enlargement shall be done at any time from the first day of October to the first day of March, or at any other time that may be agreed upon with the owner of said canal or ditch.

**Sec. 52. Water reverts upon abandonment.** When the appropriator or his successor in interest abandons or ceases to use water for a period of seven years, the right ceases, and thereupon such water reverts to the public, and may be again appropriated, as provided in this act; but questions of abandonment shall be questions of fact, and shall be determined as are other questions of fact.

**Sec. 53. Place of diversion and use may be changed.** Any person, corporation or association entitled to the use of water may change the

place of diversion and may use the water for other purposes than those for which it was originally appropriated, but no such change shall be made, if it impairs any vested right, without just compensation; and every change so made, shall be immediately reported to the State Engineer, and, if the place of diversion is changed, then the report shall be accompanied by a map, which shall clearly represent such change and show the places from and to which the change has been made, and the course and distance between the two places. Any person, corporation or association failing to make such report shall be guilty of a misdemeanor.

**Sec. 54. Water may be commingled and recovered.** Any appropriated water may be turned into the channel of any natural stream, or into a reservoir constructed across the bed of any natural stream, and commingled with its waters and then be recovered, but, in so doing, the original water in such stream or reservoir must not be diminished in quantity or deteriorated in quality.

**Sec. 55. Headgates.** Every person, corporation or association using water in this State shall construct and maintain a substantial head gate at the point where the water is diverted, and a measuring device, as near the head of the diverting channel as is practicable, for the purpose of regulating and measuring the quantity of water that may be diverted into the channel from the stream or other source. Said headgate and measuring device shall be of such pattern as the State Engineer shall approve, and shall be constructed within thirty days after request from him. Any person, corporation or association failing to comply with the provisions of this section shall be guilty of a misdemeanor, and the State Engineer is hereby authorized to furnish plans and bills of material for such devices, at the expense of the State, when in his judgment the use of such devices will be encouraged thereby.

**Sec. 56. Priority among appropriators.** Appropriators shall have priority among themselves according to the dates of their respective appropriations, so that each appropriator shall be entitled to receive the whole supply to which his certificate entitles him before any subsequent appropriator shall have any right; *provided*, that whenever the natural flow of any stream shall have receded in volume in the annual low water stage, then the rights of all users to such flow at such stage shall be deemed to be equal as to priority, and the water when at or below such stage, shall be apportioned pro rata among said users. But, in times of scarcity, while priority of appropriation shall give the better rights as between those using water for the same purpose, the use for domestic purposes shall have preference over use for all other purposes, and use for agricultural purposes shall have preference over use for any other purpose, except domestic use.

after provided. The court, referee or referees shall give not less than fifteen days notice to the claimants, stating when and where he or they will begin to take testimony; said notice shall be published in some newspaper having general circulation on said river system or water source, and upon the date named in the notice, the court, referee or referees shall begin to take the said testimony, and shall continue the same until all the testimony relating to claims to water of said river system or water source is completed; *provided*, that a notice shall be served upon each claimant at least fifteen days before the testimony is taken upon his or its claim, stating the time and place, when and where such testimony will be taken, and said notice shall be served in the same manner as a summons issued out of the district court. But he or they may grant adjournments from time to time as occasion may require, and during all of said time the map or maps and other records furnished by the State Engineer, as hereinbefore provided, shall be open to the inspection of all parties interested.

**Sec. 19. Any interested party may contest.** Any person, corporation or association owning any irrigation works, or claiming any interest in the water of said river system or water source, may contest the rights of any person, corporation or association who have filed statements of claim for any water of said river system or water source, by filing a written statement of the grounds of their contest with the clerk of said court, within thirty days after the filing of the tabulation of facts provided for in section 13; which statement of contest shall be verified by the oath of the contestant. Upon the filing of said contest, the referee or referees shall fix the time for hearing the same, which date shall be not less than thirty days nor more than sixty days from the time when the notice is served on the party, which notice and the return thereof shall be made in the same manner as summons is served in civil actions in the district courts of this State.

**Sec. 20. Subpoenas for witnesses.** The referee, or referees shall have power to issue subpoenas to witnesses which shall be served in the same manner as subpoenas issued out of the district court, and all witnesses so subpoenaed shall attend and testify and produce books and papers and documents, as required, before such referee or referees, and said witnesses shall receive the same fees as in civil cases in the district court, to be paid by the party or parties against whom the contest shall be finally determined.

**Sec. 21. Referees' findings.** On the completion of the evidence, the referee or referees shall state, in writing, the facts found by him or them, as to each claim submitted, and the conclusions of law in relation thereto, separately, and shall report the same, with a form of decree, to the district court; and said court may review said report and enter decree thereon, or set aside, alter or modify the same and enter decree



thereon so altered or modified, and, when necessary, may require the referee or referees to amend his or their reports. All the testimony taken by any referee or referees shall be stenographically reported, and the same, together with all other evidence in the matter, shall be transmitted to, preserved and filed in the office of the clerk of said district court; with the report of such referee or referees. Notice of the filing of the report of the referee or referees shall be given by the clerk, as the court may direct, and exceptions to the findings and report of the referee may be taken by the parties, as the court shall prescribe by rule.

**Sec. 22. Effect of decree.** The decree shall determine and establish the rights of the several claimants to the use of the water of said river system or water source, and among other things shall set forth the name and postoffice address of the person, corporation or association entitled to the use of the water; the quantity of water in acre-feet or the flow of water in second feet to be used; the purpose for which the water is to be used; the time during which the water is to be used each year; the name of the stream or other source from which the water is diverted; the place on the stream or other source where the water is diverted; the priority number of the right; the date of the right, and such other matter as will fully and completely define the right of said person, corporation or association to the use of the water.

**Sec. 23. Decree may be appealed from.** The decree so entered by the district court may be appealed from to the supreme court, in like manner as from decrees and judgments in other cases; *provided*, that such appeal shall be taken within six months after the entry of said decree, and all proceedings on appeal shall be conducted according to the provisions of the code of Civil Procedure, and the practice on appeals from the district court to the supreme court.

**Sec. 24. Certificate of water right to be issued.** If no appeal is taken from said decree within six months after the same has been entered, or if the case is appealed, within thirty days after the final decree is entered, it shall be the duty of the clerk of the court making said decree to issue to each person, corporation or association having been awarded the use of water by said decree, a certificate in duplicate, attested under the seal of the court, setting forth the substance of said decree, as specified in section 22. One copy of said certificates shall be transmitted, in person or by registered mail, to the appropriator, who shall, within thirty days, have the same recorded in the office of the county recorder of the county in which the water is diverted from its natural channel, and the other shall be delivered to the State Engineer and filed in his office as part of the records thereof. The letter "A" shall be prefixed to the priority number of each certificate so issued to distinguish it from certificates issued by the State Engineer.

such canals or water courses, without providing gates sufficient for the passage of the owners of such canals or water courses or their agents. Any person, corporation or association violating the provisions of this section shall be guilty of a misdemeanor.

**Sec. 66. Legal advisers to State Engineer.** In all matters requiring legal advice in the performance of his duties and the prosecution or defense of any action growing out of the performance of his duties, the Attorney General of the State and the district attorney of the district in which any legal question arises, shall be the legal advisers of the State Engineer, and they are hereby required to perform any and all legal services required of them by him, without other compensation than their salaries now or hereafter fixed by law.

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**Sec. 67. Fees of State Engineer.** The State Engineer shall collect the following fees, which shall be paid by him into the State Treasury on the first Monday in January, April, July and October of each year:

For examining and approving plans and specifications for any dam, one dollar for each and every foot in height of the dam to be built; and if necessary, to inspect the site where the dam is to be built, an additional charge of ten dollars per day and expenses shall be made.

For inspecting any diverting works, by request, ten dollars per day and expenses.

For examining and filing applications to appropriate water, each, two and 50-100 dollars.

For examining map, profile and drawings that are part of the proof of appropriation, five dollars.

For approving and recording completed applications, two and 50-100 dollars.

For issuing certificates of appropriation, each, one dollar.

For examining and filing notices of protest, each, two and 50-100 dollars.

For filing any other paper, one dollar.

For certified copy of any paper, per folio, twenty cents.

For blue print copy of any map, profile or drawing, per square foot, ten cents.

For each certificate to copy of paper, drawing or map, fifty cents; *Provided* that the provisions of section 67 shall not apply to works prosecuted under the supervision of the United States Reclamation service.

**Sec. 68. Assistance and equipment.** For the purpose of carrying into effect the provisions of this act, the State Engineer shall have power to employ all necessary assistants, purchase all necessary equipment, and do all other necessary things, the cost of which shall be paid by the State, upon presentation to the State Auditor of monthly statements, certified by the State Engineer; and approved by the State Board of Examiners; *provided*, that no expense shall be incurred by the State Engineer in the performance of his duties which will exceed the amount appropriated for that purpose.

**Sec. 69. Fees of referee and stenographer.** The fees of referees and stenographers shall be fixed by the court, and together with any other expenses, not herein provided for, that may be incurred in carrying out the provisions of this act, shall be paid out of the State Treasury, upon certificates from the proper district judge to the State Auditor of the amount due each person for such service.

**Sec. 70. Who may be made parties to actions.** In any action hereafter commenced for the protection of rights acquired to water under the laws of this State, the plaintiff may make any or all persons who have diverted water from the same stream or source parties to such action, and the court may in one judgment settle the relative priorities and rights of all the parties to such action. When damages are claimed for the wrongful diversion of water in any such action, the same may be assessed and apportioned by the jury in their verdict, or by a court if the case be tried without a jury, and judgment thereon may be entered for or against one or more of several plaintiffs, or for or against one or more of several defendants, and may determine the ultimate rights of the parties between themselves. In any action concerning joint water rights, or joint rights in water ditches, unless partition of the same is asked by the parties to the action, the court shall hear and determine such controversy as if the same were several as well as joint.

**Sec. 71. Effect of certain repeal.** The repeal by the Revised Statutes of sections twenty-four hundred and three to twenty-four hundred and twenty-seven, both inclusive, of the Compiled Laws of Utah, 1888, shall not be construed to effect the existence of any district or company organized under the aforesaid sections; but any such company or district shall, notwithstanding such repeal, continue in existence with all the rights, privileges and limitations heretofore conferred or imposed upon it by law, until disincorporated or dissolved according to law. In any case in which an irrigation company or district shall have a right of action against a delinquent member of such company or district for the non-payment of taxes voted according to law, the board of directors thereof may proceed to sell the interest of such

of such company or district and his following therein.

**Section 72. Abandonment of irrigation district.** Whenever a petition is presented to the board of trustees of any irrigation district organized under the sections preceding section 69, signed by one-third of the landholders in the district, asking for the abandonment of the district for other operations by the company or district, the board of trustees thereof shall call a special meeting, at which the question of abandonment shall be submitted. Notice of the time and place of such meeting shall be given by the board of trustees at least ten days previous thereto, by advertising at least once in some newspaper having general circulation in the district and by posting notices in three public places therein. If three-fourths of the landholders of the district voting at such election shall approve of such abandonment, it shall be the duty of the board of trustees to file a petition on the district court of the county in which the greater portion of the lands of the district are situated for the winding up of the affairs of such company or district; and thereafter proceedings shall be had which shall conform as nearly as may be with the proceedings for the voluntary dissolution of corporations.

**Sec. 73. "Received" and "filed" defined.** Whenever the word "received" is used in this act, with reference to any paper deposited in the office of State Engineer, it shall be deemed to mean the date when such paper was first received at the State Engineer's office; and whenever the term "filed" is used in such reference, it shall be deemed to mean the date when such paper was completed and filed in said office.

**Sec. 74. Repeal.** That chapter 100 of the laws of Utah, 1903 and all other laws and parts of laws in conflict with the provisions of this act, are hereby repealed; but such repeal shall not effect any vested rights, and any person, corporation or association who may have heretofore filed notice of appropriation of water, or initiated any right under the provisions of said law or any other law heretofore in force in the State, may complete and perfect such appropriation or right in the same manner and with like effect as if this repeal had not been made; and such right may be perfected in accordance with the provisions of the law under which the right was initiated or under the provisions of this act; nor shall such repeal prevent the water commissioners appointed under the act of 1901 from performing the duties therein prescribed, until they are superseded by the appointment of division superintendents and district supervisors as provided in this act, and, if necessary, other water commissioners may be appointed in the man-

ner provided in said act, to serve until they are superseded, as provided herein.

Sec. 75. This act shall take effect upon approval.

Approved this 9th day of March, 1805.

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## CHAPTER 109.

### EXAMINATION AND PAYMENT OF OUTSTANDING BOUNTY CERTIFICATES.

An Act requiring the State Auditor and the State Board of Examiners to examine into the validity of outstanding certificates for the payment of bounties issued under the provisions of chapter 137, laws of Utah, 1901, and chapter 48, laws of Utah, 1903, for determining the liability of the State therefor and authorizing the payment of such of said certificates as are ascertained to be valid, making provisions for such as are ascertained to be invalid, and making an appropriation.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Bounty certificates to be filed with State Auditor.** For the purpose of ascertaining the number and amount of all outstanding and unpaid certificates issued by the county clerks of the several counties of this State prior to January 20, 1905, under the provisions of chapter 137, laws of Utah, 1901, and chapter 48, laws of Utah, 1903, and for determining the liability of the State respecting the payment of such certificates. All persons having in their possession any of the aforesaid certificates are hereby required to file the same with the State Auditor on or before May 1st, 1905.

**Sec. 2. Auditor to examine and report.** It shall be the duty of the State Auditor to immediately examine all the certificates so filed or those on file in his office; to make a thorough investigation as to the conditions under which they were issued and, if deemed necessary by him, he shall make a personal inspection of the books and records of any county clerk for the purpose of ascertaining if there be any evidence or fraud connected with the issuance of any of such certificates, and after making said investigation, the said Auditor shall thereupon report his findings to the State Board of Examiners.

**Sec. 3. State Board of Examiners to examine. Fraudulent certificates in the hands of innocent holders.** The State Board of Examiners shall thereupon examine the said report of the said State Auditor and becoming satisfied that any such certificate or certificates have been legally issued under the provisions of chapter 137, laws of Utah, 1901,

and chapter 48, laws of Utah, 1903, and are a proper claim against the State, shall order the same paid, and the State Auditor shall pay the same by drawing his warrant or warrants upon the State Treasurer in favor of the holders of such certificates. *Provided*; That if the State Board of Examiners and the State Auditor shall determine that any of said certificates were illegally or fraudulently procured or issued and shall further find that said certificates are in the hands of innocent third parties who have purchased the same for value, then the said State Auditor and the State Board of Examiners shall require such innocent purchaser for value to make proof under oath of the actual amount paid by them for such certificates and said State Board of Examiners and State Auditor, shall thereupon allow to said innocent purchasers the actual amount which they have paid for such certificates.

**Sec. 4. State Board of Examiners to report to Legislature.** Within the first ten days of the next session of the Legislature the State Board of Examiners shall transmit to both houses of the Legislature a report of its proceedings under this act and such information or evidence obtained as to certificates so issued as appear to have been illegally issued or obtained through fraud or misrepresentation.

**Sec. 5. Appropriation.** For the purpose of paying these certificates issued aforesaid and which said State Board of Examiners find to have been issued under the provisions of chapter 137, laws of Utah, 1901, and chapter 48, laws of Utah, 1903, as herein provided the sum of twenty five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated from any moneys in the State Treasury.

Approved this 16th day of March, 1905.

## CHAPTER 110.

### TO REFORM THE FINES.

AN ACT TO REFORM THE FINES TO THE GOVERNMENT OF THE STATE, AND FOR THE PURPOSE OF THE STATE AND COUNTY FINES, FOR THE FISCAL YEARS 1905 AND 1906.

SECTION 1. TAXES FOR STATE PURPOSES. The same shall be directed to the State Auditor, who shall pay the same to the State Treasurer for the fiscal years 1905 and 1906, and the same shall be used for all the tax-

able property in this State, the sum of seven hundred and fifty thousand dollars; and, for the purpose of raising the same, there is hereby levied for each of the years nineteen hundred and five and nineteen hundred and six, an ad valorem tax of five mills on each dollar in value of the taxable property in the State, or such portion of said tax as the State Board of Equalization may find is necessary to raise the sum above set forth in each of said years.

**Sec. 2. For school purposes.** For the purpose of raising sums for the support of district schools for each of the fiscal years nineteen hundred and five and nineteen hundred and six, an ad valorem tax of three mills on each dollar in value of all taxable property in the State is hereby levied for each of the years nineteen hundred and five and nineteen hundred and six.

**Sec. 3. For County purposes.** The Board of County Commissioners of the several counties of the State are hereby authorized to levy on all the taxable property in their respective counties for each of the fiscal years nineteen hundred and five and nineteen hundred and six an ad valorem tax of not to exceed five mills on the dollar of valuation for general county purposes, and not to exceed four mills on the dollar of valuation for county school purposes and may levy a tax not exceeding one mill on the dollar additional for the care, maintenance and relief of the indigent sick and otherwise dependent poor.

**Sec. 4.** This act shall take effect upon approval.

Approved this 16th day of March, 1905.

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## CHAPTER III.

### PRIVATE CORPORATIONS.

An Act to amend section 316, Revised Statutes of Utah, 1898, as amended by section 1, chapter 81, laws of Utah, 1901, relating to the formation of private corporations.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 316, Revised Statutes of Utah, 1898, as amended by section 1, chapter 81, laws of Utah, 1901, be, and the same is hereby amended to read as follows:

**316. Oath to agreement. Subscriptions paid in property.** To the agreement prepared in accordance with the provisions of the preced-

ing section, there shall be added the oath or affirmation of three or more of the incorporators taken before any officer duly authorized to administer an oath, to the effect that they have commenced, or it is bona fide their intention to commence and carry on, the business mentioned in the agreement; and that the affiants verily believe that each party to the agreement has paid or is able to and will pay the amount of the stock subscribed for by him; *provided* that said affidavit shall not be made until at least ten per cent of the stock subscribed by each stockholder and not less than ten per cent of the capital stock of the corporation has been paid in; but this proviso shall not apply to any water users' association which is organized in conformity with the requirements of the United States under the reclamation act of June 17, 1902, and which, under its articles of incorporation, is authorized to furnish water only to its stockholders; *provided, further*, that where subscriptions to the capital stock of any corporation formed under the provisions of this chapter shall consist, in whole or in part, of property necessary to the pursuit agreed upon, there must appear in the articles of incorporation a description of the property so taken with a statement of the fair cash value thereof, which statement, except in the case of corporations organized for mining or irrigating purposes, shall be supplemented by the affidavits of three persons, to the effect that they are acquainted with said property and that it is reasonably worth the amount in cash for which it was accepted by the corporation; and the owners of such property shall be deemed to have subscribed such amount to the capital stock of such corporation as will represent the fair estimated cash value of so much of such property, or of such interest therein, as they may have conveyed to such corporation by deed actually executed and delivered.

Sec. 2. This act shall take effect upon approval.

Approved this 15th day of March 1905.



## CHAPTER 112.

## BOARDS OF HEALTH TO REPORT DISEASES.

An Act amending section 1108, Revised Statutes of Utah, 1898, as amended by chapter 102, laws of Utah, 1903, requiring local Boards of Health and health officers to report certain diseases.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 1108, Revised Statutes of Utah, 1898, as amended by chapter 102, laws of Utah, 1903, be and the same is hereby amended to read as follows:

**1108. Reports to State Board of Health.** Every local board of health or health officer shall report to the Secretary of the State Board of Health at such times as the State Board may require, the sanitary conditions of the locality, the number of births and deaths, and the causes of death as near as can be ascertained, within their jurisdiction, during the preceding month. It shall be the duty of the local health officer to make a monthly report to the State Board of Health, on or before the fifth day of each month, of all cases of scarlet fever, small-pox, diphtheria, membranous croup, typhoid fever, whooping cough, measles, chickenpox, pneumonia, and tuberculosis, which have occurred within his jurisdiction during the previous month; and upon receipt of notification of the existence of any case of either of said diseases in any family, a member of which is in attendance upon any public or private school, he must at once report the existence of such disease to the principal of the school so attended, giving the name and address of the person so affected and the nature of the disease. If no case of any of the diseases mentioned in this section has occurred during the month, the fact shall be so reported to the State Board of Health in the same manner as hereinbefore provided. It shall be the duty of the local health officer to make an annual report of his actions and those of the local board of health to the State Board of Health.

Approved this 16th day of March, 1905.

**CHAPTER 113.****CHANGE OF JUDGES IN MUNICIPAL COURTS.**

An Act relating to changes of venue in actions in municipal courts, providing for change of judge in lieu thereof, and for the certification of causes to the district court where the judge of the municipal court is disqualified, and providing for a judge pro tempore in municipal courts and fixing his compensation, and repealing section 3 of chapter 112, laws of Utah, 1901, as amended by section 1 of chapter 126, laws of Utah, 1903.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Change of judge. Cause for.** In any action now pending, or which may be hereafter commenced, in any municipal court in this State, either party of said action may, in the discretion of the court, be entitled to change of judge when it shall appear therein by affidavit or otherwise:

1. That the judge before whom the action is pending and about to be tried, is a material witness for either party.

2. That either party cannot have a fair and impartial trial before such judge by reason of the interest, prejudice or bias of such judge.

3. When, from any cause, a judge is disqualified from acting.

4. When the judge before whom the action is pending is sick, or unable to act.

**Sec. 2. Only one change.** A change of judge cannot be had on motion of the same party, more than once in any pending action.

**Sec. 3. Proceedings on change.** Whenever a change of judge is granted, as hereinbefore provided, the judge granting the change shall, except in cases hereinafter mentioned, certify all pleadings and a transcript of the proceedings in said cause to date to the district court, in and for the county where said action is pending, where within thirty days, the party at whose instance the change was granted, must docket the said cause. Thereafter, said cause shall in all respects be treated as if originally commenced in the district court; *provided*, that in all cases wherein a change of judge is granted, and such change would result in certification of said cause, to the district court, the parties litigant may, by written stipulation filed in said cause, agree upon a judge pro tempore, for the trial of said cause. The party so agreed upon as judge pro tempore, must be a member of the bar in good standing, possessing the other statutory qualifications of a municipal judge, and, when appointed by stipulation in any cause, shall in said cause have and exercise all the powers and jurisdiction of a regularly elected judge of the municipal court.

Sec. 4. **Fees.** The fees of the judge pro tempore in the municipal court unless otherwise agreed upon by the parties litigant and the party acting as judge pro tempore, shall be five dollars per day, to be taxed as costs by the successful party.

Sec. 5. **Repeal.** That section 3 of chapter 112 laws of Utah, 1901, and section 1 of chapter 126, laws of Utah, 1903, be and the same are hereby repealed.

Approved this 16th day of March, 1905.

## CHAPTER 114.

### DESTRUCTION OF WILD ANIMALS.

An Act to encourage the destruction of certain wild animals, to provide bounties for the killing thereof; making an appropriation for the payment of such bounties; providing the manner in which such bounties may be procured; providing penalties for the procurement of such bounties by fraud and for violation of this act and repealing chapter 127, laws of Utah, 1901, and chapter 48, laws of Utah, 1903.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. **Bounties for killing certain wild animals.** For the purpose of encouraging the destruction of mountain lions, coyotes, lynx and wild cats within the State of Utah, the following bounties shall hereafter be paid as hereinafter provided for the destruction of such animals, to-wit; for each mountain lion so destroyed, two dollars and fifty cents. For each coyote, lynx or wild cat so destroyed, one dollar; *provided*, that the Board of County Commissioners of any county in the State may offer and pay for the destruction of said wild animals, a county bounty to be paid out of the county funds in addition to the State bounty hereinbefore specified, *provided* that the said additional county bounty shall not exceed one half of said State bounty hereinbefore specified.

Sec. 2. **Bounties, how procured.** Any person who shall desire to obtain the bounties provided for in section 1 of this act shall, within sixty days of the killing of said animals, present to the county clerk of the county in which said animal or animals were killed, the entire skin of such animal or animals with the ears, tail and paws connected, accompanied by an affidavit subscribed and sworn to before said county clerk, stating that the animal or animals upon which such bounty is claimed and from which the skin or skins exhibited to said



presence of....., the county.....  
of the above county, cut from the said skins with the ears entire and  
tail connected, the entire scalps thereof with the ears connected, ac-  
cording to law, this....., 190., and  
I certify that there is due to the within named.....  
the sum of.....Dollars.

.....  
County clerk of the county of....., State of Utah.

Countersigned by the.....county..... of said  
.....county, State of Utah.

**Sec 5. Cancellation of skins. Report to State Auditor.** The county clerk shall thereupon, in the presence of any other county officer, of the same county, one of whom shall attend as a witness upon request, cut off from each and every skin so presented, all four paws, the entire scalp thereof, including the ears; and said county clerk shall immediately forward to the State Auditor certified copies of the affidavits hereinbefore required and the certificate made by him together with the endorsement of the other county officer witnessing the identification and cancellation of said skins; such papers shall be forwarded to the said State Auditor by mail or by some other safe channel. It shall be the duty of each and every county clerk within this State to keep a record in a bound book of all bounty certificates issued, to whom, for what, and in what sums issued, and to preserve in his office all affidavits filed by claimants for bounty certificates so numbered as to correspond with the numbers of the certificates in said bound book. It shall be the duty of the county clerk to preserve the scalps with the ears connected, removed from the skins of wild animals by him pursuant to the provisions of this act, in some safe place until his accounts shall have been properly audited by the county commissioners at least once in three months, when they shall be completely destroyed by said county clerk by fire in the presence of at least one of the county commissioners.

**Sec. 6. Auditor to draw warrant.** Upon receipt of the papers in this act hereinbefore provided, the State Auditor shall examine the same, and if he shall find that the certificates, affidavits and other papers are in conformity with the provisions of this act, he shall draw a warrant in favor of the person entitled to the same, upon the Treasurer of this State for the amount shown by said certificates to be due, and shall deliver or transmit the same to the person entitled thereto.

**Sec. 7. Books not to be removed from office.** The county clerk and the county auditor shall in no case permit any of the books, records, affidavits, certificates, certified copies thereof or any blank forms for any of the papers provided for in this act to be removed from his office except in the manner in this act specifically described.

**Sec. 8. Appropriation.** The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated annually out of the general revenue fund of the State not otherwise appropriated for the purpose of carrying into effect the provisions of this act; *provided*, however, that if during any year the amount herein appropriated shall be exhausted, the State Auditor shall immediately notify each and every county clerk within this State of such fact, and thereupon all further issuance of bounty certificates shall cease until the expiration of such year; and *provided further*, that if at the end of any year any part of the sum so appropriated in excess of outstanding certificates and warrants shall remain in the State Treasury, such excess shall be turned back into the Treasury of the State, and *provided* that no part of any annual appropriation shall be used to pay bounty claims for any other year.

**Sec. 9. Penalty.** Any person who shall make any false claim or affidavit or who shall aid, abet or connive in the making of any false claim or affidavit for the purpose of obtaining such bounty hereinbefore provided for or who shall thereby aid in fraudulently obtaining the same, shall be deemed guilty of perjury and upon conviction thereof shall be punished according to law.

Chapters 137, laws of Utah, 1901, and chapter 48, laws of Utah, 1903, are hereby repealed.

Approved this 16th day of March, 1905.

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## CHAPTER 115.

### GRANTING RIGHT OF WAY TO UNITED STATES.

An Act for granting to the United States the right of way over State lands for ditches, tunnels, and telephone and transmission lines in connection with irrigation works, and providing for the sale of certain State lands within the area of irrigation works controlled or constructed by the United States.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Right of way over State lands for canals constructed by U. S.** That there is hereby granted, over all the lands now or hereafter belonging to the State of Utah, a right of way for ditches, tunnels, and telephone and transmission lines, constructed by authority of the United States. All conveyances of State lands hereafter made shall contain a reservation of such right of way.

**Sec. 2. Regulation of sale of State lands within area of government works.** No lands belonging to the State, within the areas to be irrigated from works constructed or controlled by the United States, or its duly authorized agencies, shall hereafter be sold except in conformity with the classification of farm units by the United States, and the title to such land shall not pass from the State until the applicant therefor shall have complied with the provisions of the laws of the United States and the regulations thereunder concerning the acquisition of the right to use water from such works, and shall produce the evidence thereof duly issued; *provided*, that the area or areas to be so irrigated shall be determined by due notice, given by the United States or its duly authorized agencies, and filed with the State Board of Land Commissioners. After the withdrawal of lands by the United States for any irrigation project, no application for the purchase of State lands within the limits of such withdrawal shall be accepted, except upon the conditions prescribed in this section. Any State lands needed by the United States for irrigation works shall be sold to the United States at private sale at the appraised value of such lands.

Approved this 16th day of March, 1905.

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## CHAPTER 116.

### MILITIA.

**An Act to amend sections 1429, 1430, 1431, 1432, 1434, 1437, 1436, 1438, 1439, 1442, 1445, 1454, 1456, 1475, and 1488 Revised Statutes of Utah, 1898, relating to the composition of the militia; appointment, qualifications and duties of officers, their relative rank, retirement and pay of officers and men; provisions for those injured in service; and to military courts.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That sections 1429, 1430, 1431, 1432, 1434, 1436, 1437, 1438, 1439, 1442, 1445, 1454, 1456, 1475 and 1488, Revised Statutes of Utah, 1898, be and the same are hereby amended to read as follows:

**1429. Strength of National Guard.** The national guard of Utah shall consist of not more than one regiment of infantry, one troop of cavalry, one battery of field artillery, a signal corps, a hospital corps and a retired list. For the purpose of this title the word company or companies, whenever used in a general sense, shall apply equally to infantry, cavalry, artillery, signal corps, hospital corps and band.

**1430. Brigade organization.** The national guard of Utah shall

have a brigade organization known as the first brigade, national guard of Utah, which may be in command of a brigadier general, who may be appointed by the commander-in-chief by and with the consent of the Senate; said brigadier general may appoint a staff consisting of one assistant adjutant general one assistant inspector general one inspector of target practice each with a rank of lieutenant-colonel; one judge advocate and two aides-de-camp, each with the rank of major. To the staff of the brigadier general there may also be assigned one assistant surgeon general with rank of lieutenant-colonel.

**1431. Regimental organization.** The regiment of infantry shall consist of one colonel one lieutenant-colonel, three majors, fifteen captains, twelve first lieutenants, twelve second lieutenants, one sergeant-major, one quartermaster-sergeant, one commissary sergeant, three battalion sergeants-major, two color sergeants, with rank, pay and allowances of battalion sergeants-major, one band and twelve companies organized into three battalions of four companies each. Of the officers herein provided, the commanding officer of the regiment shall appoint three captains; to serve as staff officers of the regiment.

**1432. Regimental band.** There may be enlisted and attached to the regiment of infantry a regimental band to consist of one chief musician, one principal musician, one drum major, each with rank of sergeant of the non-commissioned staff; four sergeants eight corporals, one cook and twelve privates. The chief musician shall receive the pay, when on duty under orders, of a first lieutenant of infantry, and shall furnish a bond in the form prescribed by the adjutant general, and the sureties to be approved by the commander-in-chief, in the penal sum of \$1,000, for the safe keeping and proper return, when required by the adjutant general, of all State property in the possession of, or issued to the regimental band. The said regimental band shall be subject to the orders of the regimental commander, who may recruit and discharge said band at his discretion; all enlistment papers to be made in duplicate, one copy to be forwarded to the adjutant general and one to be filed in regimental headquarters. The non-commissioned officers of said band will be appointed by the regimental commander. When said regimental band is duly organized and is found by the board of control, on examination of rolls and reports returned by the inspecting officers, to be fully up to the standard in number, drill discipline and efficiency, it shall receive the sum of \$400 per annum; the same to be paid by the adjutant general to the chief musician to be used and expended solely for military purposes and for the use and benefit of the regimental band. The said sum of \$400 is in addition to the regular pay and allowances for enlisted men when on duty as provided for in this title.



1434. **Company organization.** The organization of companies of the national guard of Utah shall be the same as companies of the United States army; *provided*, that in time of peace a company of infantry shall contain not more than sixty nor less than forty enlisted men; a company of cavalry shall contain not more than sixty nor less than forty enlisted men; a company of artillery shall contain not more than eighty nor less than forty enlisted men; a signal corps shall contain not more than twenty-three nor less than thirteen enlisted men; a hospital corps shall contain not more than thirteen nor less than six enlisted men, and the band shall contain not more than twenty-eight nor less than thirteen enlisted men. *Provided*, that in time of war, insurrection, invasion, or imminent danger thereof, the maximum strength of companies shall be as provided in the regular army of the United States.

*Amended*  
*Ch 103*  
*67*

1436. **Staff commander-in-chief.** The staff of the commander-in-chief shall consist of an adjutant general, with the rank of brigadier general, an inspector general, a quartermaster general, a surgeon general, a judge advocate general, a general inspector of target practice, each with the rank of colonel; an assistant adjutant general and two aides-de-camp, each with the rank of lieutenant-colonel. The Governor shall, by and with the consent of the Senate, appoint any or all of the officers provided for in this section; who shall hold their offices during the incumbency of the Governor appointing them, and until their successors are duly appointed and qualified, unless sooner removed by the commander-in-chief. After the first appointments are duly made and confirmed by the Senate as aforesaid, the Governor shall fill all vacancies that may occur in any of said offices, at a time when the Senate is not in session, by temporary appointment until the next meeting of the Legislature. A permanent removal from the State of any such officer shall be deemed a resignation of his office.

*Amended*  
*Ch 91*  
*2*

1437. **Duties of adjutant general.** The adjutant general shall issue and transmit all orders of the commander-in-chief, relating to the militia or military organizations of the State. He shall keep a register of all officers commissioned by the Governor, a record of all general and special orders and regulations and of all matters pertaining to the national guard of Utah, and perform in time of peace the duties of quartermaster general. He shall have charge of the State arsenal and grounds, and receive and issue all ordnance, ordnance stores, and camp and garrison equipage, on the order of the commander-in-chief. He may appoint, with the approval of the commander-in-chief a quartermaster sergeant for permanent duty at the State armory at a salary not exceeding \$600 per annum. The adjutant general shall have charge and carefully preserve the colors, flags, guidons, and military trophies of war belonging to the State, and shall not allow the same to be loaned out or removed from their proper place of deposit. He shall

furnish, at the expense of the State, all proper blank books, blanks, and forms, and such military instruction books as shall be approved by the commander-in-chief. He shall also on or before the first day of January next preceding each regular session of the Legislature, make a full and detailed report to the Governor of all the transactions of his office, with the expense of the same for the preceding two years. He shall report at such other times and on such other matters as the Governor shall require. He shall give a bond to the State in the penal sum of ten thousand dollars with at least two sureties to be approved by the Governor.

*Amended  
Chap 97-07*

1438. **Duties of staff officers.** The inspector, quartermaster, commissary, surgeon, and judge advocate generals, and the general inspector of target practice shall perform such duties as may be prescribed by the regulations or directed by the commander-in-chief. They shall each, prior to the third Monday in December, make an annual report to the commander-in-chief through the adjutant general. The assistant adjutant general on the staff of the commander-in-chief shall assist the adjutant general in the discharge of his duties and under the direction of the adjutant general shall have charge of all quartermaster and ordnance supplies of the State. He shall give a bond to the State in the penal sum of five thousand dollars to be approved by the Governor and shall receive an annual salary of \$300. The commissions of staff officers appointed by a commanding officer shall expire as soon as the successor of such commanding officer is commissioned and qualified.

1439. **Election of field officers.** Field officers of battalions and regiments shall be elected by ballot by the commissioned line officers of the organization to serve for a term of three years, unless sooner discharged. Company officers shall be elected in like manner by the members of their respective companies to serve for a like term. In all cases a majority vote of the whole number of persons entitled to vote shall be necessary to a choice; *provided*, that the term of office under this section shall be continuous upon the re-inlistment of the officer.

1442. **Relative rank.** Commissioned officers of the same grade shall determine their relative rank by the length of time served in that grade whether continuous or not. Officers of the same grade having held their commissions for the same length of time shall determine their relative rank by lot.

*Amended  
Chap 97-07*

1445. **Retired list.** When any officer or enlisted man of the national guard in good standing has served eight years in the service of the State, he shall, if he makes application therefor to the commander-in-chief, be retired from active service and placed on the retired list with the rank held at the time of his retirement. When any officer or enlisted man has become physically incapable of performing his duties,

he shall, upon his own application, or by direction of the commander-in-chief, be ordered before a retiring board to be assembled by order of the commander-in-chief. If the report of this board shall show that the incapacity has resulted from no fault of the person examined, he shall be placed upon the retired list. Any officer or enlisted man having availed himself of the provisions of this section may not re-enter active service except with the approval of the commander-in-chief.

**1454. Pay of militia in service.** The military forces of this State when at camps of instruction or in the actual service of the State in time of war, insurrection, invasion or imminent danger thereof, shall receive the following pay: Privates \$1.50 per day; corporals, \$1.75 per day; sergeants, \$2.00 per day; first sergeants and non-commissioned staff officers of battalions and regiments \$2.25 per day. Officers shall receive the same pay as officers of a like grade in the regular army of the United States. In addition to the above pay, each officer and enlisted man shall receive one ration per day. This per diem shall be inclusive of any special appropriations made by the U. S. government.

**1456. Id. As member of military court or witness.** When in attendance, as a member or a witness upon any military court, board, or special duty ordered by the proper authority pursuant to the provisions of this title, members of the State militia shall receive the following compensation per diem: General officers, five dollars; field officers, four dollars; commissioned officers, below the grade of major, three dollars; enlisted men as provided in section 1454. In addition thereto each officer or enlisted man while on any of the above duties, necessary for the public service, shall be entitled to such actual expenses as shall be approved by competent authority for transportation and subsistence for each day actually employed in such court, board or special duty, or engaged in the business thereof, or in traveling to and from the same.

**1475. Militiamen injured on duty.** Every member of the militia who shall be wounded or disabled in any manner while in the service of the State in any duty shall receive care and medical attention at the expense of the State, and shall receive per diem provided for in section 1454 of this title during such time as he shall be temporarily incapacitated from pursuing his usual business or occupation. He shall receive such other just and reasonable relief as the Legislature may provide. All claims arising under this section shall be inquired into by a board of at least three officers, one a medical officer, to be appointed by the adjutant general upon the application of the member claiming to be so incapacitated. Such board shall have the usual powers possessed by a general court-martial. The report of said board shall be filed with the Secretary of State for action by the State Board of Examiners.

1488. **Powers of president military court.** The president of every military court may issue warrants for delinquents and subpoenas for witnesses for the prosecution or defense; and shall have the power to administer the usual oath to witnesses and the same power to compel attending witnesses to be sworn and testify, and to preserve order, as courts of common law jurisdiction; and all sheriffs, jailors, and constables are hereby required to execute any precept or process issued by such president of the court for that purpose.

Approved this 16th day of March, 1905.

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## CHAPTER 117.

### JUVENILE COURTS.

**An Act providing for Juvenile Courts, providing for the appointment of the probation officers, outlining their duties and specifying their compensation; providing a method of procedure against juvenile delinquents, specifying places for their temporary and permanent detention, and the compensation for their care; providing for the time and place of trial; defining delinquent child and delinquent person; providing punishment for all delinquents.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION. 1. Juvenile court created.** Jurisdiction of juvenile court commission. In cities of the first and second class there is hereby created a special court, to be known as the juvenile court, which shall have jurisdiction in all cases relating to children, including juvenile delinquents, as described in section 6 of this act, and of the hearing and punishment of all delinquent adult persons as described in section 7 of this act. This court shall have jurisdiction in all cases where the custody or legal punishment of children is in question. The judge of said court shall be known as the judge of the juvenile court and shall be appointed by a commission to be known as the juvenile court commission, consisting of the mayor, chief of police and city superintendent of public schools. He shall hold office for a term of four years, or until his successor shall be appointed, *provided*, said commission shall appoint said judge within thirty days after the enactment of this law, whose term shall expire December 31st, 1908. Said judge shall receive a salary of not more than one thousand dollars per year. The clerk of the city court shall be the clerk of the juvenile court in cities of the first class, and the clerk of the municipal court shall be clerk of the juvenile court in cities of the second class, and shall keep a register of the proceedings in a book to be known as the juvenile register.

**Sec. 2. Probation officer. Compensation. Duties.** In every county of the State there may be appointed by the judge of the district court having jurisdiction one discreet person of good moral character, who shall be known as the probation officer, who shall serve during the pleasure of the court, and shall receive for his or her services a sum not to exceed four dollars per day while actually on duty, said amount to be determined by the county commissioners. And *provided*, that the said judge of the district court may appoint as probation officers such other discreet persons of good moral character who are willing to serve without compensation from the court. *Provided further*, that in counties containing cities of the first and second class where a special juvenile court is established under section 1 of this act, the probation officer or officers shall be appointed by the judge of the juvenile court and serve at his pleasure. One of the officers therein shall be designated when appointed as the chief probation officer and shall be paid a salary not to exceed five hundred dollars per year from the court. Probation officers appointed by the judge of the court shall not have jurisdiction in cities of the first and second class, situated in the county for which they have been appointed. It shall be the duty of the clerk of the district court to notify all courts and magistrates of any county in which said officer is appointed, giving them the name and post office address of such officer. In case a probation officer shall be appointed by the court it shall be the duty of the clerk of the court, to notify the said probation officer when any child is to be brought before the court; it shall be the duty of such probation officer to make investigation of such case; to be present in court to represent the interests of the child when the case is heard, to furnish to the court such information and assistance as the court may require, and to take charge of any child before and after trial as may be directed by the court. Paid probation officers provided for in this act are hereby vested with all power and authority of sheriffs to make arrests and perform other duties incident to their office. Before the 15th day of December of each year the probation officers of each county shall submit to the board of county commissioners a report in writing showing the number and disposition of delinquent children brought before the courts during the year ending November 30th previous. Between the first and fifteenth days of November of each year the probation officers of each county shall submit to the board of county commissioners a report in writing showing the number and disposition of delinquent children brought before the courts, together with such other useful information regarding such cases; and the parentage of such children as may be obtained at the trials thereof. *Provided*, that the identity of any such child or parent shall not be disclosed in such report. *Provided*, that in cities of the first and second class where juvenile courts are established the judge of said

juvenile court with the assistance of the chief probation officer shall make such report to the juvenile court commission.

**Sec. 3. Proceedings by complaint.** All proceedings under this act shall be by complaint or sworn statement to be filed as in other cases under the general laws of the State; *provided*, that probation officers provided for by this act are hereby empowered to conduct proceedings against any child under this act at the request or in the absence of the county attorney. In any such complaint or sworn statement filed under this act, the act or acts claimed to have been committed by the child proceeded against shall in a general way be stated therein as constituting such child a juvenile delinquent child or person.

**Sec. 4. Procedure in Juvenile Courts. Juvenile Department of District Court.** In cities of the first and second class where juvenile courts have been established, when any child eighteen years of age or under, is arrested with or without warrant, such child shall instead of being taken before a justice of the peace or judge of the city court, be taken directly before the juvenile court; or if the child is taken before a justice of the peace or judge of the city court, upon complaint sworn out in such court or for any other reason, it shall be the duty of such justice of the peace or judge of the city court to transfer the case to the juvenile court, and the officer having the child in charge to take the child before that court, and, in any such case the court may proceed to hear and dispose of the case in the same manner as if such child had been brought before the court upon information originally provided, or, when necessary, in cases delinquency charged would otherwise constitute a felony, may direct such child to be kept in proper custody until an information or complaint may be filed as in other cases under this act or the laws of the State; *provided*, that nothing herein shall be construed to confer jurisdiction upon any justice of the peace or judge of the city court to try any case against any child eighteen (18) years of age or under. In counties where a probation officer has been appointed, whenever a complaint is made or pending against a child claimed to be a delinquent under this act, before any court or magistrate having competent jurisdiction thereof, it shall be the duty of such court or magistrate, at once, before any other proceedings are had in the case, to give notice in writing of the pendency of said cause to the probation officer for his county, who shall have opportunity allowed to investigate the charge or charges, and upon receiving such notice the probation officer shall immediately proceed to inquire into and make a full examination of the parentage of the child, and of the facts and circumstances of the case, and report the same in writing to the court or magistrate, who shall advise and counsel with the said probation officer; and if upon such investigation and consultation it shall appear to the court or magistrate before whom the complaint is made that said child

is guilty as charged, he shall immediately certify the case to the district court and transmit therewith all papers relating thereto, and the probation officer shall have charge of said child until the child shall be brought before the district court where the case shall be conducted as provided for in the provisions of this act referring to juvenile courts and the duties of probation officers. For the purposes of this act, there is hereby created a juvenile department of the district courts outside of cities of the first and second class and all proceedings thereunder shall be kept in a record to be known as the juvenile register and which shall be separate and apart from the criminal record of said district court.

**Sec. 5. Disposition of delinquent children.** In any case of a delinquent child coming under the provisions of this act, the court may continue the hearing from time to time and may commit the child to the care of the probation officers, and may allow the child to remain in its own home, subject to the visitation of the probation officer; such child to report to the court or probation officer as often as may be required, and subject to be returned to the court for further proceedings whenever such action may appear necessary; or the court may cause the child to be placed in a suitable family home, subject to the friendly supervision of the probation officer and the further order of the court; or it may authorize the child to be boarded out in some suitable family home, in case provision is made by voluntary contributions or otherwise for the payment of the board of such child, until suitable provision be made for the child in a home without such payment; or the court may commit such child to the State Industrial School, or the court may commit the child to any institution within the county, incorporated under the laws of the State that may care for children or which may be provided by the State or county suitable for the care of children, or to any State institution which may now or hereafter be established for the care of boys and girls. In no case shall a child, proceeded against under the provisions of this act, be committed beyond the age of twenty-one. A child committed to any such institution shall be subject to the control of the board of managers of such institution, and the said board shall have power to parole such child on such conditions as it may prescribe and the court shall, on the recommendation of the board, have power to discharge such child from custody whenever, in the judgment of the court, his or her reformation is complete; or the court may commit the child to the care and custody of some association which will receive it, embracing in its objects the care of neglected and delinquent children, and which has been duly credited as herein provided.

**Sec. 6. Act applies to whom. "Delinquent child" defined. Evidence in juvenile court not to be used in civil courts.** This act shall apply only to children eighteen years of age and under, not inmates of a

State institution, or any institution incorporated under the laws of the State for the care and correction of delinquent children. "Delinquent child" shall include any child eighteen years of age or under such age, who violates any law of this State or any city or village ordinance, or who is incorrigible, or who knowingly associates with thieves, vicious, or immoral persons; or who is growing up in idleness or crime; or who knowingly visits or enters a house of ill repute; or who knowingly patronizes or visits any policy shop, or place where any gambling device is or shall be operated, or who patronizes or visits any saloon or dram shop, where intoxicating liquors are sold; or who patronizes or visits any public pool room or bucket shop; or who wanders about the street in the night time without being on any lawful business or occupation; or who habitually wanders about any railroad yards or tracks, or jumps on or attempts to board any moving trains or enters any car or engine without lawful authority; or who habitually uses vile, obscene, vulgar, profane, or indecent language, or is guilty of defacing or of writing on any wall or building or in any public or private place, any vile, obscene, vulgar, profane or indecent language, or drawing any obscene or vulgar picture or pictures, or is guilty of any immoral conduct in any public or private place, or about any school house. Any child committing any of these acts herein mentioned shall be deemed a juvenile delinquent person, and shall be proceeded against as such in the manner provided in this act.

A disposition of any child under this act, or any evidence given in such cause, shall not in any civil, criminal, or other cause, or proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatever, excepting in subsequent cases against the same child under this act. The word "child" or "children" may mean one or more children, and the word "parent" or "parents" may mean one or both parents when consistent with the intent of the act.

**Sec. 7. Parents of delinquent child in certain cases guilty of a misdemeanor.** In all cases where any child shall be a delinquent child or juvenile delinquent person, as defined by section 6 of this act, the parent or parents, legal guardian, or person having the custody of such child or any other person, responsible for or by any act encouraging, causing or contributing to the delinquency of such child, shall be guilty of a misdemeanor. Whenever a complaint is made against such delinquent adult person, the said delinquent adult person shall be brought before the juvenile court wherever such courts are established, and shall be examined by said juvenile court, and if guilty, this court upon conviction may impose conditions upon any such person and so long as such person shall comply therewith to the satisfaction of the court, the sentence imposed may be suspended.



**Sec. 8. Salaries of judge and probation officer.** In cities of the first and second class where there are juvenile courts the salaries of the judges and the chief probation officer, if there be any, shall be fixed by the juvenile court commissioner, which salaries and the costs incurred in the proceedings in said courts, shall be paid out of the general funds of the city in which said courts are held, as near as may be in the same manner as the judges of city or municipal courts and the costs connected therewith are paid as the case may be.

*Provided*, that the expenses for necessary supplies for said courts shall be furnished in the same manner as supplies are furnished for city and municipal courts.

**Sec. 9. Judge to reside in city. Court room to be provided.** The judge of the juvenile court shall reside in and hold court in the city in which he is appointed and the city council of such city shall provide suitable rooms for said court, together with attendance, furniture, lights and stationery sufficient for the transaction of business, the expenses of which shall be paid out of the general funds of the city treasury.

**Sec. 10. Service of process, etc.** The laws governing city and municipal courts relative to the service of process, subpoenaing and paying witnesses and other costs connected therewith, are hereby made applicable upon the same subjects in the juvenile courts where not otherwise provided for in this act.

**Sec. 11. Probation officers in counties.** In counties in the State where there are probation officers duly appointed they shall present their claims quarterly in accordance with the provisions for the presentation of other claims against counties, to the county commissioners of the county in which their services are rendered, which bills when approved by said commissioners shall be paid out of the general county funds as other charges against said counties.

**Sec. 12. How act construed.** The provisions of this act shall be construed in accordance with the provisions in section 4052, Revised Statutes of Utah, 1898.

**Sec. 13.** This act shall take effect upon approval.

Approved this 16th day of March, 1905.

## CHAPTER 118.

## FISH AND GAME.\*

An Act for the protection of fish, game and birds; for appointment of a State Fish and Game Commissioner, special deputies and county fish and game wardens and prescribing their duties; to provide penalties for the violation of this act; and to repeal title 21, Revised Statutes of Utah, 1898; chapter 26, laws of Utah, 1899; chapter 133, laws of Utah, 1901; and chapter 116, laws of Utah, 1903.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. State Fish and Game Commissioner. Term. Qualifications.** That the Governor of the State, by and with the consent of the Senate, shall appoint a State Fish and Game Commissioner, hereafter called State Commissioner, who shall be a resident citizen of the State, and who shall not be a member of any hunting shooting or fishing club, whose term of office shall be two years and until his successor is appointed and qualified; *provided*, that when a vacancy occurs in the office of said State Commissioner and the Legislature is not in session, the Governor shall have power to fill such vacancy until the next regular session of the Legislature, and he shall have power to remove the State Commissioner at any time for cause.

**Sec. 2. Salary. Bond.** The State Commissioner shall receive an annual salary of one thousand dollars, together with his reasonable and necessary traveling and contingent expenses, not exceeding three hundred dollars per annum. He shall, before entering upon the duties of his office, take and subscribe to the constitutional oath of office and give a bond in the penal sum of five thousand dollars for the faithful performance of his duty. Such bond shall be approved by the State Board of Examiners and filed with the Secretary of State.

**Sec. 3. Powers and duties of Commissioner. Deputies.** The State Commissioner shall have control and supervision of the waters of the State, for the collection, propagation, culture and distribution of fish in the State, and shall receive and distribute all game, fish, fish fry and spawn coming into his hands fairly and equitably among the several counties. He shall have full control of all the property of the State obtained or held for the purposes contemplated by this act, and he shall have power to appoint special deputies to assist in enforcing the provisions of this act; *provided*, that the sum of two thousand dollars may be expended annually for the payment of said special deputies.

**Sec. 4. Commissioner authorized to take fish and game. Report.** It shall be lawful for the State Fish and Game Commissioner, or any person appointed by him in writing so to do, to take fish and game of any kind, dead or alive, or in any manner, under the direction of the

County Fish and Game Warden, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes, deemed by him to be in the interests of the fish and game industry of the State. He shall make a detailed report of his official transactions, including the number and kinds of fish distributed and the locality and name of streams, ponds or lakes where the same have been placed, and submit such report to the Legislature during the first week of its ensuing regular session.

**Sec. 5. County Warden. Qualification. Compensation.** At their first session, after this act shall take effect the county commissioners of each county of the State shall appoint a County Fish and Game Warden, hereinafter called County Warden or County Fish and Game Warden who shall be a resident citizen of the State and who shall not be a member of any hunting, shooting or fishing club, whose term of office shall be two years and until his successor shall be appointed and qualified. Said County Warden, shall before entering upon the duties of his office, take and subscribe to the constitutional oath of office and give a bond for the faithful performance of his duties; said bond shall be approved by the county commissioners and filed in the office of the county clerk. The County Warden shall receive adequate compensation for his services, to be determined and paid by the county commissioners out of the county treasury, and shall perform his duties under the direction of the State Commissioner and the county commissioners, and may be removed for cause by the State Commissioner, with the consent of the county commissioners. Upon the appointment of the County Warden, the county clerk shall immediately advise the State Commissioner of said appointment, giving name and address of said appointee.

**Sec. 6. Duties of Commissioner and Warden.** It shall be the duty of the State Commissioner, and also the duty of the County Fish and Game Wardens to see that all laws of the State for the protection of fish and game are faithfully enforced in the several counties, and for this purpose they respectively are severally hereby given the same powers and authority granted by the laws of the State to and exercised by sheriffs and constables. The State Commissioner each of his special deputies and every County Warden throughout the State, and every sheriff and constable in his respective county, is authorized and required to enforce this act, and seize any game or fish taken or held in violation of this act, and he shall have full power and authority, and it shall be the duty of every such officer, with or without a warrant, to arrest any person whom he has reason to believe guilty of a violation thereof; and if, without a warrant, to hold him until a warrant can be procured; to open, enter and examine all cars, stages, packs, warehouses, stores, outhouses, boxes, barrels and packages where he has reason to believe any game or fish taken or held in violation of this act, is

to be found, and to seize the same; and, *provided*, that if such search or seizure be made without a warrant, the officer making the same must procure a warrant therefor as soon as possible during or after the search or seizure; and *provided further*, that a dwelling house actually occupied can be entered for examination only in pursuance of a warrant. It shall be the duty of the County Fish and Game Wardens to report their official acts in detail to the State Commissioner annually during and not later than the first week in December, and oftener if so required by the State Commissioner.

**Sec. 7. Duties of County Wardens. Canal owners to give notice before draining canal.** It shall be the duty of the County Warden to take or cause to be taken in the best practicable manner any imported fish, mountain trout, bass or herring, found in pools or other places in which receding waters of the rivers, streams, canals or other waterways have left them, and which are likely to become dry, and to carefully put the live fish thus taken into State water, and to make the best disposition of the dead fish in the interest of the county treasury. All persons, corporations and companies owning or controlling irrigating canals, ditches or mill races for irrigation, operating mills or power plants of any kind, before draining any such canal, ditch or mill race for any known purposes, shall give the County Warden at least two days notice of such draining, and a failure to do so will be a misdemeanor.

**Sec. 8. Fish ways. Sawdust in streams.** The owners of any dam not exceeding twenty-five feet in height, across any of the streams of this State shall, if required by the County Fish and Game Warden and under his direction, erect and maintain at all times and at the expense of said owner or owners, suitable fishways to allow the free and uninterrupted passage of fish up and down the streams, *provided* that this provision shall not apply to reservoir dams when the water is held back for irrigation purposes. It shall be unlawful and a misdemeanor for any person or persons, corporations or companies to build or maintain any dam that will be the means of killing or destroying the fish passing up or down any stream. And it shall be unlawful and a misdemeanor for any person or persons, corporation or company owning any saw mill in this State, to cause or permit any sawdust or other refuse matter from said sawmills to be washed, dumped or placed in any of the streams or waters of this State, or to place such sawdust or refuse matter in such close proximity to any stream that the same might be washed into said stream by rains; *provided*, that nothing in this act shall be so construed as to interfere with acquired rights to use water in this State.

**Sec. 9. Screens to prevent fish from entering wheels.** It shall be unlawful for any person or persons to operate any mill, factory, power plant of other manufacturing concern run by water power and having

either head or tail races, without first furnishing and maintaining suitable screens or other device to prevent the fish from entering therein; said screens to be built and maintained under the direction of the County Warden and at the expense of said owner or owners or operators of said mill, factory, power plant or other manufacturing concerns; *provided*, that the woolen factory race at Provo, Utah county, this State, through which fish reach Spring Lake, be made an exception to these obligations; and, *provided further*, that the owner or owners or operators of said woolen factory or other factories or mills situated upon said race, furnish and maintain at all times and at their own expense, suitable screens to prevent fish from entering the water wheels and water pipes of said factories or mills; said screens to be built and maintained under the direction of the County Warden.

**Sec. 10. Taking fish when and how lawful.** It shall be unlawful and a misdemeanor for any person to fish for or take any fish from any of the waters of this State, except the Colorado, Green, Grand and San Juan rivers by any means or device whatever, except by means of hook and line, commonly known as angling, and in that way, only between the 14th day of June of each year and the 15th day of December following. *Provided*, that only in Utah Lake and Provo River below the Oregon Short Line Railway bridge at Provo, and in Bear River below the county bridge at Bear River City, and in the Jordan River, carp, suckers, chubs, bullhead catfish, mullet and mountain herring, may be caught with hook and line commonly known as angling, at any time; and *provided further*, that it shall be unlawful and a misdemeanor to take any fish whatever from the waters of Fish Lake or its tributaries, or from Seven Mile Creek below Fish Lake at any time in the year except only between the 20th day of July and the 15th day of December following; and *provided further*, that it shall be unlawful and a misdemeanor for any person to take or have in possession at any time of any year any trout, black bass, or mountain herring less than seven inches long; and *provided further*, that the word "angling," as used in this act, is defined to be fishing with a fishing rod or pole held in the hand or hands, the rod or pole to have only one line attached thereto, and the line to have attached thereto artificial flyhooks not exceeding two in number, or one baited fish hook with no more than one gang of no more than three hooks, or one trolling spoon with no more than one gang of no more than three hooks.

**Sec. 11. Bass and trout.** It shall be unlawful for any person to sell, kill, destroy or have in his possession any bass or trout whatever at any time after the 15th day of December and before the 15th day of June following. *Amended Ch 118 Laws 1905*

**Sec. 12. Unlawful to sell trout. Limit of catch. Sale from private ponds.** It shall be unlawful and a misdemeanor for any person to sell

or offer or expose for sale at any time any eastern brook trout, rainbow trout, grayling trout, native black-spotted or mountain trout, or any other species of trout or landlocked salmon, taken from any of the streams or waters of this or any other State and in prosecutions here under it shall be sufficient to allege generally that such fish were unlawfully held, and proof of the sale or of the offering or exposing for sale of any such varieties or species of fish, shall be prima facie evidence that they were unlawfully held. It shall be a misdemeanor for any person to take, catch or have in possession more than fifteen pounds of any one or more of said varieties or species of fish on any one day, for domestic use or any other purpose; and in prosecutions hereunder it shall be sufficient to allege generally, that such fish were unlawfully held and proof of the taking or catching or having in possession on any one day of more than fifteen pounds of any one or more of such varieties or species of fish, shall be prima facie evidence that such fish were unlawfully held; *provided*, that between the 14th day of June and the 15th day of December following of each year it shall be lawful to take, only with hook and line, commonly known as angling, and between the same dates, to sell, any number of pounds per day, of black bass from Utah, Bear and Sevier Lakes only. It is *further provided* that any kind of trout propagated and raised in private ponds situate in this State, may be sold or exposed for sale at any time, but in prosecutions for the violation of any of the matters or things hereinbefore prohibited or declared unlawful in this section, it shall not be necessary for the State to negative either in the complaint or on the trial this proviso. It is *further provided*, that the owner or owners of said private fish ponds, as well as all vendors of such fish shall, before selling any fish from said ponds, procure from the county clerk a separate license to sell said fish from said private ponds, which license shall be non-assignable, and the pond owner or owners shall make out and sign a certificate of sale or transfer in duplicate for each consignment of such fish sold from such private ponds, and shall deliver said certificates in duplicate at the time of sale, as follows, to-wit: One duplicate thereof to the buyer, who must produce it for inspection upon any request; and the other duplicate to the County Fish and Game Warden for his use as a means of identification. Each certificate and the duplicate must contain the name of the vendee or transferee, the character and weight of fish sold, and the date of transfer. All owners of private ponds, selling trout therefrom, shall further, place upon some part of each trout so sold or offered for sale a private mark, the mark and place where the same shall be so affixed upon each trout to be designated by the County Fish and Game Warden; and if any wholesale or retail vendor, hotel, boarding-house or restaurant keeper shall at any time have in his possession or sell or offer for sale or furnish to any customer, any trout without said mark so affixed or without the exhibition of the aforesaid duplicate

certificate of sale, or if any person shall have at any time in his possession any trout claimed to have been taken from a private pond without said designated mark so affixed, then he shall be guilty of a misdemeanor. Any person failing to comply with or who violates any of the provisions of this section shall be guilty of a misdemeanor.

**Sec. 13. Use of Explosives or Drugs.** It shall be unlawful for any person to kill or take any fish from the waters of the State by the use of any poison, deleterious or stupefying drug, giant powder, or quicklime, or any explosive substance whatever, or to place or to use in or on the surface of such waters, any giant powder, quicklime, or any explosive substance, or any poison, deleterious or stupefying drug, or to have in his possession any fish killed or taken by the use or aid of any of these substances. Any person found guilty of violating any of the provisions of this section shall be fined in any sum not less than one hundred dollars for each offense, or imprisoned in the county jail not less than ninety nor more than one hundred and twenty days, or by both such fine and imprisonment.

**Sec. 14. Use seines, traps, etc. Fishing by artificial light.** It shall be unlawful for any person to take any fish from the waters of this State by the erection of any weir, dam, fence, wheel, basket, trap, net, seine, setline, seive, gun, grabbing hooks or by fishing by fire or lamp light at night, or by other device whatsoever which can be used for the unlawful catching of fish; *provided*, that, for the purpose of catching carp, chubs, mullets, bullhead catfish, or suckers, and these fish only, seines not more than two hundred yards long and twelve feet wide, with meshes not less than one and one-half inch square for 50 yards in the center, and meshes not less than 2 inches square in the wings thereof, may be used in the following named waters only: Bear and Sevier Lakes, the Colorado, Green, Grand and Sevier River below the bridge on the State Road leading from Juab to Scipio from May 1st to October 1st of each and every year both days inclusive and in San Juan River; in the Weber River below its junction with the Ogden River; in the Bear River below the bridge at Bear River City, from September 1st to March 31st, following, both days inclusive; and in Bear Lake only from May 15 to July 15; *provided further*, that suckers may be taken by grabbing hooks in Provo River and Spanish Fork River only, and that only between the Oregon Short Line Railway crossing and Utah Lake, and in Weber River in Morgan and Weber counties; and, *provided further* that before any person shall use seines in the waters of Bear and Sevier Lakes above mentioned and in the Weber River below its junction with the Ogden River, and in the Bear River below the bridge at Bear River City, such person shall secure the presence of either the County Ward- chap 18  
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en or his deputy, who shall be paid not to exceed two dollars per day by the party drawing the seine.

It shall be lawful to use spears with or without torch or lamplight for taking and killing carp only. It shall be lawful to use gill nets not exceeding fifty yards long and six feet wide, with meshes not less than three inches square, in Bear Lake only, between June 15th and September 15th of each year.

**Sec. 15. Seining in Spring Creek Lake forbidden.** It shall be unlawful to use seines in Spring Creek Lake which runs into Utah Lake, or within one-half mile from the mouth of any stream flowing into Utah Lake or the mouth of Spring Creek channels which lead into said lake, or within one-half mile from the mouth of any stream, or body of water connecting two other bodies of water, in this State.

**Sec. 16. Screens in irrigation canals.** It is hereby made the duty of the warden of each county, on the recommendation of the board of county commissioners, to see that all irrigation canals when deemed necessary in the judgment of the County Warden, are properly protected by some device which will not be the means of obstructing the flow of water into such canals, so that no fish may enter said ditches between June 1st and September 15th of each year; said device to be provided and maintained by the county commissioners for each county.

**Sec. 17. Screens at head of reservoirs.** It shall be the duty of the owners or operators of any reservoir to furnish and maintain at all times a suitable screen at the head of their reservoirs, such as will effectually prevent fish from any waters of the State from passing into the reservoirs, the same to be maintained under the direction and approval of the County Warden and county commissioners.

**Sec 18. Seizure of seines and explosives.** All seines, nets, tackle, powder, explosives, lime, poisons, drugs and other means or devices for unlawfully taking or killing fish of any kind, found in the possession of any person who may be detected in unlawfully taking fish from any of the waters of the State, shall be seized by the officer making the arrest, and if it appears from the evidence before the magistrate trying the case that the seines, nets, powder, explosives, lime, poisons, drugs and other means and devices for taking or killing fish were used, or were about to be used, or intended to be used for the unlawful taking of fish, the same are hereby confiscated and shall be, by order of the magistrate, taken and disposed of in the interest of the county treasury.

**Sec. 19. Unlawful to kill deer, elk, etc.** It shall be unlawful and a misdemeanor for any person at any time for the next succeeding four years to shoot at or in any manner kill any deer, elk, antelope, mountain sheep, otter or beaver, or any game animals or birds that may be

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brought or introduced into this State by the Fish and Game Department or by private individuals for the purpose of stocking the State with said animals or birds, or to capture and hold in confinement any of the animals or their young, mentioned in this section, unless it be for public or private parks, within this State and then only by permission of the State Fish and Game Commissioner; and it shall be a misdemeanor punishable by a fine of not less than one hundred dollars, to sell or offer for sale any part or parts of any of the animals mentioned in this section. Any person or persons giving information or evidence that will lead to the conviction for violation of any of the provisions of this act shall receive one-half of the fine collected for such violation.

Sec. 20. **Use of dogs in hunting.** It shall be unlawful for any person or persons to pursue with any dog or dogs any of the animals mentioned in section 19 of this act.

Sec. 21. **Prairie chickens, grouse, etc.** It shall be unlawful and a misdemeanor for any person to kill, ensnare, net or entrap, [or have] in his possession within the State any partridge, pheasant, prairie chicken, sage hen, grouse or mourning dove, after the 1st day of December and before the 15th day of August following; or to rob or destroy the nests, eggs or young of any of the birds mentioned in this section; and it shall be unlawful and a misdemeanor to sell or offer for sale any of the birds mentioned in this section, at any time, or for any person to kill or have in his possession more than eight grouse in any one day, and the word grouse includes all of the birds mentioned in this section.

Sec. 22. **Insectivorous and song birds.** It shall be unlawful for any person to kill, ensnare, net or entrap at any time, in any year, any gull, owl, hawk, lark, whippoorwill, thrush, swallow, snowbird, robin, or other insectivorous or song birds, except the English sparrow, or to rob or destroy the nests, eggs or young of any of said protected birds mentioned in this section.

Sec. 23. **Wild ducks and geese.** It shall be unlawful for any person to take, kill, wound or shoot at, or have in his possession, any wild duck, goose, snipe, shore-bird, or brant, or swan between the 1st day of January and the 1st day of October following; to rob or destroy nests, eggs, or the young of any of said birds mentioned in this section, or to take, wound or shoot at any of the birds mentioned in this section between one hour after sunset and one hour before sunrise government standard time; and it shall be unlawful to use any sneak-boat, or sink boxes or other devices answering the same purpose, while in pursuit of any of the birds mentioned in this section; *provided*, that not more than twenty-five of any and all birds mentioned in this section shall be killed and have in possession by any person in any one day. Chap 18  
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Sec. 24. **Gauge of gun to be used.** It shall be unlawful and a

misdemeanor for any person to use a gun larger than a ten-gauge while hunting for fowl or birds.

Sec. 25. **Unlawful possession of fish or game.** Any person who shall have in his possession any game, fish or birds taken unlawfully is guilty of a misdemeanor. All fish or game taken or held unlawfully or shipped or consigned for shipment out of this State shall be seized by the State or County Fish and Game Warden and disposed of to the best interest of the county treasury of the county in which said seizure may be made. The possession of any animal, fish or bird, or of the remains or any part of the remains thereof, within the time or period within which the taking or killing or possession of the same is prohibited, shall be prima facie evidence of such unlawful taking or killing or possession; and it shall be unlawful to kill, catch or otherwise take or destroy, and leave to waste, or in any manner to cause or suffer to be wasted, and bird, animal or fish in this act mentioned, or any useful part or parts thereof.

Sec. 26. **Pheasants and quail.** Any person who shall hereafter at any time within the State willfully kill, wound, ensnare, trap or shoot at, or have in his possession any birds commonly known as the Mongolian or Chinese pheasant, English pheasant, pinnated grouse, or quail shall be guilty of a misdemeanor; *provided*, it shall be lawful to kill quail in the counties of Washington and Kane between the 1st day of August and the 1st day of the following February, and in Salt Lake, Davis, and Weber counties between September 30th and October 11th of each year. It shall be unlawful to transport or ship any quail out of the above mentioned counties at any time except for the purpose of propogation under the direction of the State Fish and Game Commissioner, and it shall be unlawful and a misdemeanor to sell or offer for sale any of the above mentioned birds, or for any one person to kill or have in his possession more than twelve quails in any one day in Salt Lake, Davis and Weber counties.

Sec. 27. **Penalties.** Except as otherwise provided in this act, all persons who shall violate or fail to comply with any of the enactments or provisions of this act shall be guilty of a misdemeanor and shall be fined not less than ten dollars for each offense, and all fines and forfeitures collected under the provisions of this act shall be paid into the county treasury of the respective counties.

Sec. 28. **Reserving waters for propogating fish.** For the better advancement of the fish interests of the State, the State Commissioner and the County Fish and Game Warden, by and with the consent of the county commissioners, may select and reserve one stream, lake or pond in each county for the purpose of planting, breeding and propogating fish. Such reservation may continue for a period of not longer than

four consecutive years; and it shall be a misdemeanor for any person to fish in any stream, lake or pond, while so reserved. When any stream, lake or pond is selected for any such purposes, the County Warden shall forthwith post or cause to be posted and maintained conspicuous notices thereof along the banks or shores of such stream, lake or pond, at points over one mile apart; and the County Warden shall also cause notice thereof to be published in the newspaper issued and published nearest to such lake, stream or pond, for two weeks prior to the closing of such stream, lake or pond to public fishing.

**Sec. 29. Shipping fish or game out of State unlawful.** It shall be unlawful for any person or persons at any time to ship or cause to be shipped, carried or transported or to consign for shipment out of this State, any of the animals, birds or fish, or any part or parts thereof, dead or alive, mentioned in this act. *Chap. 18-2.*

Any person or persons found guilty of violating any of the provisions of this section shall be fined in a sum not less than one hundred dollars.

**Sec. 30. Non-resident gun license.** It shall be unlawful for any non-resident person or for any resident who is not a citizen of the United States to kill any game, animals, birds or fish in this State, without first having procured the license to do so hereinafter provided for. Any non-resident person or any resident who is not a citizen of the United States, upon the payment to the State Commissioner, of the sum of twenty-five dollars, shall be entitled to receive a license, from said commissioner, which will entitle him to hunt and kill game, animals, birds and fish, for the period of one year subject to all the laws of this State for the protection of fish and game. All moneys received by the State Fish and Game Commissioner under the provisions of this section shall be turned into the general fund of the State Treasury.

**Sec. 31. Repeal.** That title 21, Revised Statutes of Utah, 1898; chapter 26, laws of Utah, 1899; chapter 133, laws of Utah, 1901; and chapter 116, laws of Utah, 1903, are hereby repealed.

Approved this 17th day of March, 1905.

## CHAPTER 119.

## TO TAX GIFTS, LEGACIES AND INHERITANCE.

An Act to tax gifts, legacies, and inheritance in certain cases, and to provide for the assessment and collection of the tax, and repealing chapter 62, of the laws of Utah, 1901, and chapter 93 of the laws of Utah, 1903.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. All property in excess of ten thousand dollars subject to inheritance tax.** All property within the jurisdiction of this State and any interest therein, whether belonging to the inhabitants of this State or not, and whether tangible or intangible, which shall pass by will or by the statutes of inheritance of this or any other State, or by deed, grant, sale or gift made or intended to take effect in possession or enjoyment after the death of the grantor or donor, to any person in trust or otherwise, shall be subject to a tax of five per centum of its market value above the sum of ten thousand dollars, after the payment of all debts, for the use of the State; and all administrators, executors and trustees, and any such grantee under conveyance, and such donee under a gift made during the grantor's or donor's life, shall be respectively liable for all such taxes to be paid by them respectively, except as herein otherwise provided, with lawful interest as hereinafter set forth until the same shall have been paid. The tax aforesaid shall be and remain a lien on such estate from the death of the decedent until paid. In determining the amount of tax to be paid under the provisions of this section, after the payment of all debts the sum of ten thousand dollars shall be deducted from the entire estate and the tax shall be computed and paid on the entire remainder; and the court shall determine the amount of tax to be paid by the several devisees, legatees, grantees or donees of the decedent.

**Sec. 2. Term "debts" defined.** The term "debts" as used in this chapter shall include, in addition to debts legally due and payable at the time of the death of a decedent, all State taxes due from the estate prior to its death, and shall also include funeral expenses, the court costs, the expenses of the estate and the expenses for the purpose of assessing the inheritance tax, the statutory fees of executors, administrators or trustees, and the expenses of said decedent's estate, which shall be paid unless the same are paid or provided for within thirty days from the death of decedent, except as to claims against the estate, unless otherwise ordered by the court or the probate court.

**Sec. 3. Appraisers to be appointed.** In each county the court shall appoint one or more appraisers, not less than three and free holders of said county, who shall appraise all property within its jurisdiction, which is subject to be charged with an inheritance tax. Said ap-

praisers shall serve for one year, and until their successors are appointed and qualified. They shall each take an oath to faithfully and impartially perform the duties of the office, but shall not be required to give bond. They shall be subject to removal at any time at the discretion of the court, and the court, or judge thereof in vacation, may also in its discretion, either before or after the appointment of the regular appraisers, appoint other appraisers to act in any given case. Vacancies occurring otherwise than by expiration of term, shall be filled by the appointment of the court, or by a judge in vacation.

**Sec. 4. Appraisers must not take fee from heir, etc.** Any appraiser appointed by this act who shall take any fee or reward from any executor, administrator, trustee, legatee,, next of kin or heir of any decedent, or from any other person liable to pay said tax or any portion thereof, shall be guilty of a misdemeanor, and upon conviction in any court having jurisdiction of misdemeanors, he shall be fined not less than two hundred and fifty dollars nor more than five hundred dollars and imprisoned not exceeding ninety days, and in addition thereto the judge shall dismiss him from such service.

**Sec. 5. Commission to appraisers.** When an estate is opened in which there is property which may be subject to the inheritance tax, the clerk shall forthwith issue a commission to the appraisers, who shall fix a time and place for appraisement.

**Sec. 6. Duties of appraisers.** It shall be the duty of all appraisers appointed under the provisions of this act to forthwith give notice to the State Treasurer and other persons known to be interested in the property to be appraised, of the time and place at which they will appraise such property, which time shall not be less than ten days from the date of such notice. The notice shall be served in the same manner as is prescribed for the commencement of civil actions, and if not practicable to serve the notice provided for by statute, they shall apply to the court or a judge in vacation for an order as to notice and upon service of such notice and the making of such appraisement, the said notice, return thereon and appraisement shall be filed with the clerk, and a copy of such appraisement shall be filed by the clerk with the State Treasurer.

**Sec. 7. Objections to appraisments. Hearing on.** The State Treasurer or any person interested in the estate appraised, may, within twenty days thereafter, file objections to said appraisement, on the hearing of which as an action in equity, either party may produce evidence competent or material to the matters therein involved. If, upon such hearing, the court finds the amount at which the property is appraised is at its value on the market in the ordinary course of trade, and the appraisement was fairly and in good faith made, it shall approve such appraisement; but if it finds that the appraisement was

made at a greater or less sum than the value of the property in the ordinary course of trade, or that the same was not fairly or in good faith made, it shall set aside the appraisement, appoint new appraisers, and so proceed until a fair and good appraisement of the property is made at its value in the market in the ordinary course of trade. The State Treasurer, or any one interested in the property appraised, may appeal to the Supreme Court from the order of the district court approving or setting aside any appraisement to which exceptions have been filed. Notice of appeal shall be served within thirty days from the date of the order appealed from, and the appeal shall be perfected in the time now provided for appeals in equitable actions. In case of appeal the appellant, if he is not the State Treasurer, shall give bond to be approved by the clerk of the court, to pay the tax, which bond shall provide that the said appellant and sureties shall pay the tax for which the property may be liable with cost of appeal. If upon the hearing of objections to the appraisement, the court finds that the property is not subject to the tax, the court shall upon expiration of time for appeal, when no appeal has been taken, order the clerk to enter upon the lien book a cancellation of any claim or lien for taxes. If at the end of twenty days from the filing of the appraisement with the clerk, no objections are filed, the appraisement shall stand approved.

**Sec. 8. Action on cases now pending.** In all cases where the property of an estate has been subject to or liable for the payment of the tax provided in this act, or where such property has heretofore been appraised and the tax not yet paid, and the notice required in this act was not given, it shall be the duty of the court, immediately upon the taking effect of this act, to enforce such tax, or to set aside any appraisement heretofore made, and order a reappraisement of the same to be made as in this act provided, anything in the law contrary notwithstanding.

**Sec. 9. Time of appraisement and payment of tax.** All the property of the decedent subject to such tax shall, except as herein-after provided, be appraised within thirty days next after the appointment of an executor, administrator or trustee, at its market value in the ordinary course of trade, and the tax thereon, calculated upon the appraised market value after deducting debts for which the estate is liable, shall be paid by the persons entitled to said estate within fifteen months from the death of the testator or intestate, unless a longer period is fixed by the court, and, in default thereof, the court shall order the same, or so much thereof as may be necessary to pay such tax, to be sold.

**Sec. 10. Estates for life or term of years.** Whenever any real estate of a decedent shall be subject to such tax, and there be a life estate or interest for a term of years given to one party or parties, and

the remainder to another party or parties, the court shall direct the interest of the life estate, or term of years, to be appraised at its market value in the ordinary course of trade, and, upon the approval of such appraisement by the court, the party entitled to such life estate, or term of years, shall, within sixty days thereafter, pay such tax, and in default thereof the court shall order such interest in said estate, or so much thereof as shall be necessary to pay such tax, to be sold. Upon the determination of such life estate, or term of years, the court shall, upon its own motion, or upon the application of the State Treasurer, cause such estate to be appraised at its then market value in the ordinary course of trade, from which shall be deducted the value of any improvements thereon, or betterments thereto, if any, made by the remainder man during the time of the prior estate, to be ascertained and determined by the appraisers, and the tax on the remainder shall be paid by such remainder man within sixty days from the approval by the court of the appraisers. If such tax is not paid within said time, the court shall then order said real estate, or so much thereof as shall be necessary to pay such tax, to be sold. Whenever any personal estate of a decedent shall be subject to such tax and there be a life estate or interest for a term of years given to one party or parties, and the remainder to another party or parties, the court shall inquire into and determine the market value in the ordinary course of trade, of the life estate or interest for the term of years and order and direct the amount of the tax thereon to be paid by the prior estate and that to be paid by the remainder man, each of whom shall pay his proportion of the tax within sixty days from such determination, unless a longer period is fixed by the court, and, in default thereof, the executor, administrator or trustee shall pay the same out of said property and hold the same from distribution, and invest it at interest under the order of the court until said tax is paid, or until the interest on the same equals the amount of such tax, which shall thereupon be paid.

**Sec. 11. Where bequest is in lieu of compensation to executor.** Whenever a decedent appoints one or more executors or trustees and in lieu of his or their allowance or commission makes a bequest or devise of property to him or them, which would otherwise be liable to said tax, or appoints them as residuary legatees, and said bequests, devises or residuary legacies exceed what would be a reasonable compensation for his or their services, such excess shall be liable to such tax, and the court having jurisdiction of his or their accounts, upon its own motion or on application of the State Treasurer, shall fix such compensation.

**Sec. 12. Where legacy is a charge upon real estate.** Whenever any legacies subject to said tax are charged upon or payable out of any real estate, the heir or devisee, before paying the same shall deduct

said tax therefrom and pay it to the executor, administrator, trustee or State Treasurer, and the same shall remain a charge and be a lien upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator, trustee or State Treasurer in his name of office, in the same manner as the payment of the legacy itself could be enforced.

**Sec. 13. Executor, etc., to collect tax.** Every executor, administrator or trustee having in charge or trust any property subject to said tax, and which is made payable by him, shall deduct the tax therefrom, or shall collect the tax thereon from the legatee or person entitled to said property, and he shall not deliver any specific legacy or property subject to said tax to any person until he has collected the tax thereon.

**Sec. 14. Taxes payable to State Treasurer within fifteen months.** All taxes imposed by this act shall be payable to the State Treasurer, and those which are made payable by executors, administrators or trustees shall be paid within fifteen months from the death of the testator or intestate, unless a longer period is fixed by the court, or a judge thereof in vacation. All taxes not paid within fifteen months from death of the testator or intestate, shall draw interest at the rate of eight per centum per annum until paid.

**Sec. 15. Executor, etc., to collect tax in certain cases, other cases State Treasurer.** It is hereby made the duty of all executors, administrators or trustees charged with the management or settlement of any estate subject to the tax provided for in his act, to collect and pay to the State Treasurer the amount of the tax due from any devisee, legatee, grantee or donee of the decedent, except in cases falling under the provisions of sections nine and ten hereof in which cases the State Treasurer shall collect the same. Applications may be made to the district court by such executor, administrator, trustee or State Treasurer to sell the real estate subject to said tax in an equitable action, or, if made to the court having charge of the settlement of the estate, the proceedings shall conform as nearly as may be to those for the sale of real estate of decedent for the settlement of his debts.

**Sec. 16. No settlement allowed until tax paid.** No final settlement of the account of any executor, administrator or trustee shall be accepted or allowed unless it shall show, and the court shall find, that all taxes imposed by the provisions of this act upon any property or interest therein belonging to the estate to be paid by such executors, administrators or trustees, and to be settled by said account, shall have been paid, and the receipt of the State Treasurer for such tax shall be the proper voucher for such payment.

**Sec. 17. District court to have jurisdiction.** The district court



having either principal or ancillary jurisdiction of the settlement of the estate of the decedent shall have jurisdiction to hear and determine all questions in relation to said tax that may arise affecting any devise, legacy or inheritance, or any grant or gift, under this act, subject to appeal as in other cases, and the State Treasurer shall in his name of office represent the interests of the State in any proceedings.

**Sec. 18. State Treasurer may demand information from executors, etc.** Before issuing his receipt for the tax, the State Treasurer may demand from executors, administrators or trustees, such information as may be necessary to verify the correctness of the amount of the tax and interest, and when demanded, they shall send such Treasurer-certified copies of such parts of their reports as he may demand, and upon the refusal of said parties to comply with the demand of the State Treasurer, it is the duty of the clerk of the court to comply with such demand, and the expenses of making such copies and transcripts shall be charged against the estate, as are other costs in probate.

**Sec. 19. Inheritance tax and lien book to be kept by clerk.** The clerk of the district court in and for each county, where an inheritance tax is charged or sought to be charged, shall provide and keep a suitable book, substantially bound and suitably ruled, to be known as the inheritance tax and lien book, in which shall be kept a full and accurate record of all proceedings in cases where property is charged or sought to be charged with the payment of an inheritance tax under the laws of this State, to be printed and ruled so as to show upon one page:

(1) The name, place of residence, and date of death of the decedent.

(2) Whether the decedent died testate, or intestate, and if testate, the record and page where the will was probated and recorded.

(3) The name and postoffice address of the executor, administrator, trustee, or grantee, with date of appointment or transfer.

(4) The names, postoffice addresses and relationship, if known, of all the heirs, devisees and grantees.

(5) The appraised valuation of the personal property.

(6) The amount of inheritance tax due upon said personal property.

(7) A record of payment with amount and date.

(8) Date of filing objections and names of objectors.

(9) Blank for index and reference to all proceedings, and for memorandum entries of the court or judge in relation thereto.

Upon the opposite page of such record shall be printed:

(1) Real estate derived from .....  
(naming decedent) which is subject to the lien prescribed by the statute for inheritance tax.

(2) A full and accurate description of such real estate, by forty-acre or fractional tracts, or by lots, or other complete individual description.

(3) The appraised valuation as reported by the appraisers, with a reference to the record of their report, as to each piece of such real estate.

(4) The amount of inheritance tax due upon each such piece.

(5) A record of payments, with dates and amounts.

(6) Date of filing objections, and names of objectors.

(7) Blank for index and reference and to all proceedings, and for memorandum entries of court or judge in relation thereto.

**Sec. 20. Executor, etc., to report facts. Entry of real estate in lien book.** Upon the appointment and qualification of each executor, administrator and testamentary trustee, the clerk issuing the letters shall at the same time deliver to him a blank form upon which he shall be required to make detailed report of the following facts:

(1) Name and last residence of the decedent.

(2) Date of death.

(3) Whether or not he left a will.

(4) Name and postoffice of executor, administrator or trustee.

(5) Name and postoffice of surviving wife or husband, if any.

(6) If testate, name and postoffice of each beneficiary under the will.

(7) Relationship of each beneficiary to the testator.

(8) If intestate, name and postoffice of each heir at law.

(9) Relationship of each heir at law to the decedent.

(10) Inventory of all real estate of the decedent, giving amount and description of each tract.

Within ten days after his qualification, each executor, administrator and testamentary trustee shall make and return to the clerk, under oath, a full and detailed report as indicated in the preceding paragraph, any will to the contrary notwithstanding, and upon his failure to

do so, the clerk shall forthwith report his delinquency to the district court if in session, or to a judge of said court if in vacation, for such order as may be necessary to enforce an observance of this section. If it appears from the inventory or report so filed, that the real estate, or any part of it, is subject to an inheritance tax, it shall be the duty of the executor or administrator to cause the lien of the same to be entered upon the lien book in the office of the clerk of the court in each county where each particular tract of said real estate is situated, and no conveyance of said real estate or interest therein, which is subject to such tax before or after entering of said lien, shall discharge the real estate so conveyed from the operation thereof, and no final settlement of the account of any executor, administrator or trustee shall be accepted or allowed unless a strict compliance with the provisions of this section has been had by such person.

**Sec. 21. Extension of time for appraisement.** Whenever, by reason of the complicated nature of an estate, or by reason of the confused condition of the decedent's affairs, it is impracticable for the executor, administrator, or trustee or beneficiary of said estate to file with the clerk of the court a full, complete and itemized inventory of the personal assets belonging to the estate, within the time required by statute for filing inventories of the estate, the court may, upon the application of such representatives or parties in interest, extend the time for the making of the inheritance appraisement for a period not to exceed three months beyond the time fixed by law.

**Sec. 22. Clerk to enter in inheritance tax and lien book. Index.** The clerk shall from time to time enter upon the inheritance tax and lien book, the title of all estates subject to the inheritance tax, as shown by the inventories or lists of heirs filed in his office, or as reported to him by the district attorney or the State Treasurer, and shall enter in said book as against each estate or title at the appropriate place, all such information relating to the situation and condition of the estate as he may be able to obtain from the papers filed in his office, or from the district attorney or the State Treasurer, as may be necessary to collection and enforcement of the tax. He shall also immediately index all liens entered upon the inheritance tax and lien book in the book kept in his office for that purpose.

**Sec. 23. Complete record by clerk.** In all cases entered upon the inheritance tax and lien book, the clerk shall make a complete record in the proper probate record, of all the proceedings, orders, reports, inventories, appraisements and all other matters and proceedings therein.

**Sec. 24. Duties of clerk.** It shall be the duty of each clerk of the district court to make examination from time to time of all reports filed with him by administrators, executors, and trustees, pursuant to law;

cedent owner, and the indebtedness for which the said estate has been adjudged liable, which statements shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of said estate shall then be entitled to have deducted such proportion of the said indebtedness of the decedent from the value of the property as the value of the property within this State bears to the value of the entire estate.

**Sec. 29. Id.** Whenever any property, real or personal, within this State, belongs to a foreign estate, said foreign estate passes in part exempt from the inheritance tax, and in part subject to said inheritance tax, and it is within the authority or discretion of the foreign executor, administrator or trustee administering the estate to dispose of the property not specifically devised to direct heirs or devisees in the payment of the debts owing by the decedent at the time of his death, or in the satisfaction of legacies, devises or trusts given to direct and collateral legatees or devisees, or in payment of the distributive shares of any direct and collateral heirs, then the property within the jurisdiction of the State, belonging to such foreign estate, shall be subject to the inheritance tax imposed by this act, and the tax due thereon shall be assessed as provided in the next preceding section of this act, and with the same proviso respecting the deduction of the proportionate share of the indebtedness, as therein provided.

**Sec. 30. Id. Tax on corporate stock.** If a foreign executor, administrator, or trustee shall assign or transfer any corporate stock or obligations in this State standing in the name of a decedent, or in trust for a decedent, liable to such tax, the tax shall be paid to the State Treasurer on or before the transfer thereof; otherwise the corporation permitting its stock to be so transferred shall be liable to pay such tax and it is the duty of the State Treasurer to enforce the payment thereof.

**Sec. 31. State Treasurer may compromise certain cases.** Whenever an estate charged, or sought to be charged, with the inheritance tax, is of such a nature, or is so disposed, that the liability of the estate is doubtful, or the value thereof cannot, with reasonable certainty, be ascertained under the provisions of law, the State Treasurer may, with the approval of the Attorney-General, which approval shall set forth the reasons therefor, compromise with the beneficiaries or representatives of such estates, and compound the tax thereon; but said settlement must be approved by the district court or judge of the proper court, and after such approval, the payment of the amount of the taxes so agreed upon shall discharge the lien against the property of the estate.

**Sec. 32. Act applies to pending cases.** This act shall apply to all estates which are not closed, and the property subjected by

**this** act to the said tax is liable to the provisions incorporated in this act.

Sec. 33. **Repeal.** Chapter 62, laws of Utah, 1901, and chapter 93, laws of Utah, 1903, are hereby repealed.

Sec. 34. This act shall take effect upon approval.

Approved this 17th day of March, 1905.

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## CHAPTER 120.

### REGISTRATION OF BIRTHS AND DEATHS.

**An Act** providing for the registration of all births and deaths within the State, and defining the duties of the State Board of Health, and of the secretary thereof, in relation thereto, providing for the division of the State into registration districts and the appointment of local registrars, defining their duties and fixing their compensation, and providing the issuance of birth and death certificates, and burial permits, making an appropriation to carry the provisions of this act into effect, and providing penalties for violation thereof. And repealing sections 2029, 2030, 2031, 2032, 2033, 2034, 2035 and 2036 of the Revised Statutes of Utah, 188, and sections 19, 20, 21, 22 and 23 of chapter 45, laws of Utah, 1899.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Registration of births and deaths.** That it shall be the duty of the State Board of Health and Vital Statistics to have charge of the State system of registration of births and deaths; to prepare the necessary methods, forms, and blanks for obtaining and preserving such records; and to insure the faithful registration of the same in the towns, precincts, and in the office of the secretary of said Board. The said board shall be charged with the uniform and thorough enforcement of the law throughout the State.

**Sec. 2. State Registrar. Clerical assistance.** That the secretary of the State Board of Health and Vital Statistics shall be State Registrar and shall have general supervision of vital statistics. The State Board of Health shall provide for such clerical and other assistance as may be necessary for the purposes of this act, and may fix their compensation within the amount appropriated therefor by the Legislature.

**Sec. 3. Registration Districts.** That for the purposes of this act, the State shall be divided into registration districts as follows:

Each city of the first and second class shall constitute a registration district and the health officer therein shall be the registrar thereof; except within cities of the first and second class, each precinct in the State shall constitute a registration district.

**Sec. 4. Local Registrars. Term. Removal.** That within sixty days after the taking effect of this act, the county commissioners of each county in the State shall select a local registrar of vital statistics for each registration district in the county excepting cities of the first and second class, and the selection shall at once be reported by the said Board to the State Registrar. The State Registrar shall promptly notify the local registrar of his appointment, and the latter shall return an acceptance in writing, together with the name and address of his deputy, whom he shall at once appoint, and whose duty it shall be to act in his stead in case of absence, illness, or disability. The term of appointment of local registrars shall be for two years, beginning with the first day of January of the year in which this act shall take effect, and their successors shall be appointed by the county commissioners in a similar manner at least ten days before the expiration of their terms of office. Each registrar shall qualify by taking the constitutional oath which shall be filed with the county clerk. Any local registrar who fails or neglects to efficiently discharge the duties of his office, who fails to make prompt and complete returns of births and deaths, shall, on complaint of the State Registrar, be forthwith removed from his office by the county commissioners and a successor appointed.

**Sec. 5. Burial permits.** That the body of any person whose death occurs in the State shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district until a permit for burial or removal shall have been properly issued by the registrar of the registration district in which the death occurs. And no such burial or removal permit will be issued by any registrar until a complete and satisfactory certificate and return of the death has been filed with him, as hereinafter provided; *provided*, that a transit permit issued in accordance with the law and the health regulations of the place where the death occurred, may be accepted by the local registrar in the district where the body is to be interred or otherwise finally disposed of as a basis upon which he shall issue a local burial permit in the same way as if the death occurred in his district, but shall plainly enter on the face of the copy of the record, the fact that it was a body shipped in for interment and give the actual place of death. But when a body is removed from a district in Utah to an adjacent or nearby district for interment, not requiring the use of a common carrier or the issue of a transit permit, then the registrar's removal permit from the district where death occurred may be accepted as authority for burial.

**Sec. 6. Stillborn children.** That stillborn children, or those dead at birth, shall be registered as births and also as deaths, and a certificate of both the birth and the death shall be filed with the local registrar in the usual form and manner, the certificate of birth to contain,

in place of the name of the child, the word "stillbirth." The medical certificate of the cause of death shall be signed by the attending physician, if any, and shall state the cause of death as "stillborn," with the cause of the stillbirth, if known; whether a premature birth, and, if born prematurely, the period of uterogestation in month, if known; and a burial or removal permit in usual form shall be required. Midwives shall not sign certificates of death for stillborn children, but such cases, and stillbirths occurring without attendances of either physician or midwife, shall be treated as deaths without medical attendance as provided for in section eight of this act.

**Sec. 7. Form of death certificate.** That the certificate of death shall contain the following items:

(1) Place of death, including State, county, precinct, town or city. If in a city, the street and house number. If in a hospital or other institution, the name of the same to be given instead of the street and house number.

(2) Full name of decedent. If an unnamed child, the surname, preceded by "unnamed."

(3) Sex.

(4) Color.

(5) Conjugal condition—as single, married, widowed or divorced.

(6) Date of birth, including the year, month and day.

(7) Age, in years, months and days.

(8) Place of birth, State or foreign country.

(9) Name of father.

(10) Birthplace of father: State or foreign country.

(11) Maiden name of mother.

(12) Birthplace of mother: State or foreign country.

(13) Occupation: The occupation to be reported of any person who had any remunerative employment, women as well as men.

(14) Signature and address of informant.

(15) Date of death, including the year, month and day.

(16) Statement of medical attendance on decedent, fact and time of death, including the time last seen alive.

(17) Cause of death, including the primary and immediate causes, and contributory causes or complications, if any, and the duration of each.

(18) Signature and address of physician or official making the medical certificate.

(19) Special information concerning death in hospitals and institutions and of persons dying away from home, including the former or usual residence, length of time at place of death, and place where disease was contracted.

(20) Place of burial or removal.

(21) Date of burial or removal.

(22) Signature and address of undertaker, or person in charge of the funeral.

(23) Official signature of registrar, with date when certificate was filed and registered number.

The personal and statistical particulars (items one to thirteen) shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts.

The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, who shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred. And he shall further state the cause of death so as to show the course of disease or sequence of causes resulting in death, giving the primary and immediate causes, and also the contributory causes, if any, and the duration of each. Indefinite and unsatisfactory terms indicating only symptoms of disease or condition resulting from disease will not be held sufficient for issuing a burial or removal permit, and any certificate containing only such terms, as defined by the State Registrar, shall be returned to the physician for correction and definition. Causes of death which may be the result of either disease or violence shall be carefully defined, and, if from violence, its nature shall be stated, and whether accidental, suicidal, or homicidal. And in case of deaths in hospitals, institutions or away from home, the physician shall furnish the information required under this head (item nineteen) and shall state where, in his opinion, the disease was contracted.

**Sec. 8. Death without medical attendance.** That in case of any death occurring without medical attendance, it shall be the duty of the undertaker to notify the registrar of such death, and when so notified the registrar shall inform the local health officer and refer the case to him for immediate investigation and certification prior to issuing a permit; *provided*, that when the local health officer is not a qualified physi-



ian, or when there is no such official, and in such cases only, the registrar is authorized to make the certificate and return from the statement of relatives or other persons having adequate knowledge of the facts; *provided further*, that if the circumstances of the case render it probable that the death was caused by unlawful or suspicious means, the registrar shall then refer the case to the coroner for his investigation and certification.

**Sec. 9. Duties of undertaker.** That the undertaker, or person acting as undertaker, shall be responsible for obtaining and filing the certification of death with the registrar and securing a burial or removal permit prior to any disposition of the body. He shall obtain the personal and statistical particulars from the persons best qualified to supply them over the signature and address of his informant. He shall then present the certificate to the attending physician, if any, or to the health officer or coroner, as directed by the registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as specified in section eight. And he shall then state the facts required relative to the date and place of burial over his signature and with his address, and immediately present the completed certificate to the registrar. The undertaker shall deliver the burial permit to the sexton or person in charge of the place of burial before interring the body, or attach the transit permit containing the registrar's removal permit to the box containing the corpse when shipped by any transportation company, to accompany same to destination, where it shall be taken up by the local registrar of the district in which interment is made, who shall issue a burial permit thereon.

**Sec. 10. Where interment is in registration district where death occurs.** That if the interment or other disposition of the body is to be made in the registration district in which the death occurred, the wording of the burial permit may be limited to a statement by the registrar, and over his signature, that a satisfactory certificate of death having been filed with him as required by law, permission is granted to inter, or otherwise dispose of the body of the deceased, stating the name, age, sex, cause of death, and other necessary details upon the form prescribed by the State Registrar. But in case the interment or other disposition of the body is to be made in some registration district other than that in which the death occurred, a complete copy of the certificate of death shall be attached to and made part of the permit.

**Sec. 11. Duties of sexton.** That no sexton or person in charge of any premises in which interments are made shall inter or permit the interment of any body unless it is accompanied by a burial, removal or transit permit as herein provided. And each sexton or person in charge of any burial ground shall indorse upon the permit the date of interment, over his signature, and shall immediately return all permits, so indorsed, to the local registrar of his district. He shall also

keep a record of all interments made in the premises under his charge, stating the name of the deceased person, place of death, date of burial and name and address of the undertaker, which record shall at all times be open to public inspection.

**Sec. 12. Registration of births.** That all births that occur in the State shall be immediately registered in the districts in which they occur, as hereinafter provided.

**Sec. 13. Duty of attending physician, etc.** That it shall be the duty of the attending physician or midwife to file a certificate of birth giving all the particulars required by this act, with the local registrar of the district in which the birth occurred, within ten days after the date of birth. And if there be no attending physician or midwife, then it shall be the duty of the father of the child, householder or owner of the premises, manager or superintendent of institution in which the birth occurred, to file said certificate of birth with the local registrar within three days after the birth.

**Sec. 14. Contents of birth certificate.** That the certificate of birth shall contain the following items:

(1) Place of birth, including State, county, precinct, or city. If in a city, the street and house number; if in a hospital or other institution, the name of the same to be given instead of the street and house number.

(2) Full name of child. If the child dies without a name before the certificate is filed, enter the words "died unnamed." If the living child has not been named at the date of filing the certificate of birth, the space for "full name of child" is to be left blank, to be filled out subsequently by a supplemental report as hereinafter provided.

(3) Name of child.

(4) Whether a twin, triplet, or other plural birth. A separate certificate shall be required for each child in a case of plural birth giving number of child in order of birth.

(5) Whether legitimate or illegitimate.

(6) Full name of father.

(7) Residence of father.

(8) Color or race of father.

(9) Birthplace of father.

(10) Age of father at last birthday, in years.

(11) Occupation of father.

(12) Maiden name of mother, in full.

- (13) Residence of mother.
- (14) Color or race of mother.
- (15) Birthplace of mother.
- (16) Age of mother at last birthday, in years.
- (17) Occupation of mother.
- (18) Number of child of this mother, and number of children of this mother now living.

(19) Certificate of attending physician or midwife as to attendance at birth, including statement of year, month, day and hour of birth, and whether the child was alive or dead at birth. This certificate shall be signed by the attending physician or midwife, with date of signature and address. If there was no physician or midwife in attendance, then the person whose duty it shall become to file a certificate of birth as required by section thirteen of this act, shall draw a line through the words, "I hereby certify that I attended the birth of above child," and shall write in lieu thereof the words, "no physician or midwife," filling out the remainder of the certificate in regard to the year, month, day, and hour of birth, and signing the certificate as father, householder, owner of premises, manager or superintendent of institution as the case may be, with his address.

(20) Exact date of filing in office of local registrar, attested by his official signature and registered number of birth, as hereinafter provided.

All certificates, either of birth or death, shall be written legibly in unfading ink, and no certificate shall be held to be complete and correct that does not supply all of the items of information called for therein or satisfactory account for their omission.

**Sec. 15. Where name is not given in certificate.** That when any certificate of death of a living child is presented without statement of the given name, then the local registrar shall make out and deliver to the informant a special blank for the supplemental report of the given name of the child, which shall be filled out as directed and returned to the registrar as soon as the child shall be named. The original certificate of birth shall not be considered complete until the supplemental report is filed or the blank returned with the statement "died unnamed."

**Sec. 16. Register of physicians, midwives and undertakers.** That every physician, midwife, and undertaker, shall, without delay, register his or her name, address, and occupation with the local registrar of the district in which he or she resides or may hereafter establish a residence, and shall thereupon be supplied by the local registrar with a

copy of this act, together with such rules and regulations as may be prepared by the State Board of Health relative to its enforcement. Within thirty days after the close of each calendar year, each local registrar shall make a return to the State Registrar of all physicians and midwives who have been registered in his district during the whole or any part of the preceding calendar year.

**Sec. 17. Blanks to be furnished by State Board.** That the State Board of Health shall prepare, print and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of this act, and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. And no other blanks shall be used than those supplied by the State Registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory, he shall require such further information to be furnished as may be necessary to make the record complete and satisfactory. And all physicians, midwives, informants, or undertakers connected with any case, and all other persons having knowledge of the facts, are hereby required to furnish such information as they may possess regarding any birth or death, upon demand of the State Registrar, in person, by mail, or through the local registrar. He shall further arrange, bind, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive and continuous card index of all births and deaths registered, the cards to show the name of child or deceased, place and date of birth or death, number of certificate, and the volume in which it is contained. He shall inform all registrars what diseases are to be considered as infectious, contagious or communicable and dangerous to the public health, as decided by the State Board of Health, in order that when death occur from such diseases, proper precautions may be taken to prevent the spreading of dangerous diseases.

**Sec. 18. Duties of local registrar.** That it shall be the duty of the local registrar to supply blank forms of certificates to such persons as require them. And he shall carefully examine each certificate of birth or death when presented for record to see that it has been made out in accordance with the provisions of this act, and the instructions of the State Registrar, and if any certificate of death is incomplete or unsatisfactory, it shall be his duty to call attention to the defects in the return and to withhold issuing the burial or removal permit until they are corrected. If the certificate of death is properly executed and complete, he shall then issue a burial or removal permit to the undertaker; *provided*, that in case the death occurred from some disease that is held by the State Board of Health to be infectious, contagious or

communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the Registrar except under such conditions as may be prescribed by the State and local Board of Health. If a certificate of birth is incomplete, he shall immediately notify the informant and require him to supply the missing items, if they can be obtained. He shall then number consecutively the certificates of birth and death in two separate series, beginning with "number one" for the first birth and the first death in each calendar year, and sign his name as registrar in attest of the date of the filing in his office. He shall also make a complete and accurate copy of each birth and death certificate registered by him, upon a form identical with the original certificate, to be filed and permanently preserved in his office as the local record of such death, in such manner as directed by the State Registrar. And he shall, on the fifth day of each month, transmit to the State Registrar all original certificates registered by him during the preceding month. And if no births or no deaths occurred in any month, he shall, on the fifth day of the following month, report that fact to the State Registrar on a card provided for this purpose.

**Sec. 19. Compensation of local registrar.** Each local registrar shall be paid at the rate of three (\$3.00) dollars per day of the time actually required in carrying out the provisions of this act. At the end of each quarter he shall make out an itemized bill for his services and forward the same to the State Registrar for his approval, and if approved by him he shall return the same to the local registrar, who may thereupon present the same to the Board of County Commissioners for approval, and the same shall be paid by the county; but no bill for services of local registrars shall be paid until first approved by the State Registrar.

**Sec. 20. State Registrar to furnish copies. Fees.** That the State Registrar shall, upon request, furnish any applicant a certified copy of the record of any birth or death registered under provisions of this act, for the making and certification of which he shall be entitled to a fee of one (\$1.00) dollar, to be paid by the applicant. And any such copy of the record of a birth or death, when properly certified by the State Registrar to be a true copy thereof, shall be prima facie evidence in all courts and places of the facts therein stated. For any search of the files and record, when no certified copy is made, the State Registrar shall be entitled to a fee of fifty (50) cents for each hour or fractional hour of time of search, to be paid by applicant. And the State Registrar shall keep a true and accurate account of all fees received by him under these provisions, and turn the same over to the State Treasurer, at the end of each quarter.

**Sec. 21. Penalties.** That if any physician who was in medical at-

tendance upon any deceased person at the time of death shall neglect or refuse to make out and deliver to the undertaker, sexton, or other person in charge of the interment, removal, or other disposition of the body, upon request, the medical certificate of death hereinbefore provided for, he shall be deemed guilty of a misdemeanor. And if any physician shall knowingly make a false certification of the cause of death in any case, he shall be deemed guilty of a misdemeanor. And any physician or midwife in attendance upon a case of confinement, or any other person charged with responsibility for reporting births, in the order named in section thirteen of this act, who shall neglect or refuse to file a proper certificate of birth with the local registrar within the time required by this act, shall be deemed guilty of a misdemeanor. And if any undertaker, sexton, or other person acting as undertaker, shall inter, remove, or otherwise dispose of the body of any deceased person without having received a burial or removal permit as herein provided, he shall be deemed guilty of a misdemeanor. And any registrar, or deputy registrar, who shall neglect or fail to enforce the provisions of this act in his district, or shall neglect or refuse to perform any of the duties imposed upon him by this act or by the instructions and direction of the State Register, shall be deemed guilty of a misdemeanor. And any person who shall wilfully alter any certificate of birth or death, or the copy of any certificate of birth or death, on file in the office of the local registrar, shall be deemed guilty of a misdemeanor. And any other person or persons who shall violate any of the provisions of this act, or shall wilfully neglect or refuse to perform any duties imposed upon them by the provisions of this act, shall be deemed guilty of a misdemeanor. And any common carrier, carrying or accepting through its agents or employees for carriage, the body of any deceased person without an accompanying permit issued in accordance with the provision of this act, shall be deemed guilty of a misdemeanor; any person convicted of a misdemeanor under the provisions of this act, shall be fined in any sum not less than ten dollars nor more than two hundred dollars; *provided*, that in case the death occurred outside of the State and the body is accompanied by a certificate of death, burial, or removal or transit permit issued in accordance with the law or Board of Health regulations in force where the death occurred, such death certificate, burial, or removal, or transit permit may be held to authorize the transportation or carriage of the body into or through the State.

**Sec. 22. Further duties of local and State Registrars.** That local registrars are hereby charged with the strict and thorough enforcement of the provisions of this act in their districts, under the supervision and direction of the State Registrar. And they shall make an immediate report to the State Registrar of any violations of this law coming to

their notice by observation or upon complaint of any person, or otherwise. The State Registrar is hereby charged with the thorough and efficient execution of the provisions of this act in every part of the State, and with supervisory power over local registrars to the end that all of the requirements shall be uniformly complied with. He shall have authority to investigate cases of irregularity or violation of law, personally or by accredited representative, and all registrars shall aid him, upon request, in such investigations. When he shall deem it necessary, he shall report cases of violation of any of the provisions of this act to the prosecuting attorney of the proper county, with a statement of the facts and circumstances, and when any such case is reported to him by the State Registrar, the prosecuting attorney shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law. And upon request of the State Registrar, the Attorney General shall likewise assist in the enforcement of the provisions of this act.

**Sec. 23. Appropriation.** That the sum of fifteen hundred dollars, or so much thereof as may be necessary, is hereby appropriated to the State Board of Health and vital statistics for the purpose of carrying out the provisions of this act for the years 1905 and 1906.

**Sec. 24. Repeal.** Sections 2029, 2030, 2031, 2032, 2033, 2034, 2035 and 2036 of the Revised Statutes of Utah, 1898, and sections 19, 20, 21, 22 and 23 of chapter 45, laws of Utah, 1899, are hereby repealed.

Approved this 16th day of March, 1905.

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## CHAPTER 121.

### REVENUE FOR COMMON SCHOOL DISTRICTS.

An Act providing revenue for common school districts where the revenue from the State, county, and district school tax is insufficient.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Where school revenues insufficient State money to be paid for school and teachers.** That in those districts of the State where the revenue derived from the State, county and school district tax levies are insufficient, to enable the school trustees to employ a teacher for a period of at least twenty-eight weeks; and the Board of County Commissioners of the county in which said school district or districts are located has made the maximum school tax levy, (to-wit:) four mills; that the school district trustees have levied the maximum rate, to-wit: five mills; and that there is not a sufficient amount from the allotment

*Amended  
of 1905*

of State and county school moneys to raise the fund for the payment of teachers to the sum of three hundred dollars for the current school year. the County School Superintendent shall make report thereof, giving the amount available in such district for the payment of teachers in the school year, verified under oath, to the State Superintendent of Public Instruction, not later than the 31st day of March in such year. The State Superintendent shall by the 15th day of April of such year, make report to the State Auditor, State Treasurer, and the State Board of Examiners of the school districts so reported to him, with the county or counties in which they are located, and the names and addresses of the County Superintendents thereof. And there shall be paid out of any moneys in the State Treasury not otherwise appropriated, a sufficient sum to make the amount available, for the payment of teachers in each of such school districts aggregate three hundred dollars for the school year, for the use of the school district so applying therefor. *Provided*, that school is maintained in the district at least twenty-eight weeks in the school year.

**Sec. 2. How paid.** Said moneys for the districts in each county shall be paid to the County Superintendent of such county, for the use of such districts, on the certificate of the State Superintendent; said moneys to be used exclusively for the payment of teachers; and the said County Superintendent shall, within thirty days from the time of receiving the State warrant for his county's portion, file with the State Auditor proper vouchers, approved by the District trustees and signed by the teacher or teachers employed. He shall before October 1st of each year refund any unused portion of the amount to the State Treasury.

**Sec. 3. Appropriation.** For the purpose of carrying out the provisions of this act, there is hereby appropriated from any fund in the State Treasury, not otherwise appropriated, the sum of six thousand dollars or so much thereof as may be necessary; *provided*, that if the six thousand dollars so appropriated, is insufficient to meet the requirements of this act, each district so affected shall receive a pro rata apportionment of the fund so appropriated.

Approved this 17th day of March, 1905.



## CHAPTER 122.

## COAL MINE INSPECTOR.

**An Act providing for the appointment of a coal mine inspector defining his duties, fixing his salary and providing for the inspection of coal and hydro-carbon mines; providing for the health and safety of the persons employed therein, and for the protection of the property connected therewith, and repealing chapter 2, title 42 Revised Statutes of Utah, 1898, as amended by chapter 85, laws of Utah, 1901.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Inspector of hydro-carbon mines. Term.** For the purpose of securing an efficient and thorough inspection of coal and hydro-carbon mines within the State of Utah, and to provide for an adequate enforcement thereof, the Governor shall appoint, by and with the consent of the Senate, one Mine Inspector for coal and hydro-carbon mines. The Inspector so appointed shall hold his office for a term of four years from the date of his appointment and until his successor is appointed and qualified. *Provided*, that such Inspector may be removed at the pleasure of the Governor. In case of resignation, death or removal, the vacancy shall be filled by the Governor for the unexpired term.

**Sec. 2. Salary, how paid. Instruments and stationery.** The said Inspector of coal and hydro-carbon mines shall receive a salary of two thousand (\$2,000) dollars a year and actual necessary traveling expenses incurred in the proper discharge of his official duties, to be paid quarterly by the State Treasurer out of any moneys appropriated for that purpose, on the certificate of said Inspector of Mines showing service rendered, and also on presentation of the certificate of said Inspector of coal and hydro-carbon mines showing a statement of all moneys received by him for fees, and the actual amount necessarily expended for actual traveling expenses for the quarter; and on presentation of such certificates the State Auditor shall issue his warrant for the amount thereof, to be paid out of any appropriations aforesaid. He is hereby authorized to procure such instruments and stationery from time to time as may be necessary to the proper discharge of his duties under this act, at the expense of the State, which shall be paid by the State Treasurer upon accounts duly certified by him and audited by the proper department of State.

**Sec. 3. Bond. Qualifications of Inspector.** Before entering upon the discharge of his official duties, the Inspector shall give a bond to the State in the sum of ten thousand (\$10,000) dollars, to be approved by the proper officers, conditioned for the faithful performance of his duties. Said bond shall be deposited with the Secretary of State. The person so appointed must be a citizen of Utah, and must have attained the

age of thirty years. He must have a knowledge of different systems of working coal mines, and he must produce satisfactory evidence to the Governor of having had at least five years' practical experience in the coal mines of Utah. He must have had experience in coal mines where noxious and explosive gases are evolved. He must hold the certificate of examination required by law to be held by mine foremen of the State.

**Sec. 4. Shall give whole time to office.** The said Inspector shall not act as manager or agent or lessee for any mining or other corporation during his term of office, but shall give his whole time and attention to the duties of his office.

**Sec. 5. Mine owners to render assistance. Penalty for refusal.** Every owner, agent, manager or lessee of any coal or hydro-carbon mines in this State shall freely admit the Inspector or his assistants to such mine on the exhibition of his certificate of appointment, for the purpose of making the examination and inspection provided for in this act, whenever the mine is in active operation, and render any necessary assistance for such inspection; but said Inspector or his assistants shall not unnecessarily obstruct the working of said mine. Upon the refusal of the owner, agent, manager or lessee to admit the Inspector or his assistants to such mine, such owner, agent, manager or lessee shall be subject to a fine of not less than fifty dollars nor more than five hundred dollars for each and every such offense.

**Sec. 6. Mine owners to make maps of workings.** The owner, agent, manager or lessee of any coal or hydro-carbon mine in this State shall make, or cause to be made, an accurate map or plan of the workings of such mine, on a scale of one hundred feet to the inch, which said map shall show all the openings or excavations, shafts, tunnels, slopes, planes, entries, cross-headings, rooms, etc., and show the directions of the air current and also the water system therein, and shall accurately show the boundary lines between said mine and adjoining mines. Such map or plan, or true copy thereof, shall be furnished to the Inspector and one copy shall be kept at such mine for the inspection of the Inspector or employees thereof. The owner, agent, manager or lessee, at least once in every six months, shall place or cause to be placed on the map or plan, an accurate showing of all additional excavations which have been made in the mine during the said six months. The several maps or plans of mines in this State, which are furnished to the Inspector, shall be the property of the State, and shall remain in the care of the said Inspector, and shall be transferred by him to his successor in office; and in no case shall any copy of any of them be made without the consent of the owner, agent, manager or lessee. If the Inspector shall find or have good reason to believe that any map or plan of any mine made or furnished him,

in pursuance of the provisions of this act, is materially inaccurate or imperfect, he is authorized to cause a correct plan or map of said mine to be made, at the expense of the owner, agent, manager or lessee thereof; *provided*, that if the map or plan which was claimed to have been inaccurate shall be found to be practically correct, then the State shall have to pay the expense of making the new map or plan of such mine.

**Sec. 7. Openings for egress. Buildings at entrance. Cages.** It shall be unlawful for the owner, operator or superintendent of any mine to employ any person or persons in such mine for the purpose of working therein, unless there are in connection with every seam or stratum of coal, worked in such mine, not less than two openings or outlets, separated by a stratum of not less than one hundred and fifty feet at surface and not less than thirty feet at any place, at which openings or outlets, safe and distinct means of ingress and egress shall at all times be available for the persons employed in the said mine. The escapements, shafts or slopes shall be fitted with safe and available appliances by which the employees of the mine may readily escape in case an accident occurs deranging the hoisting machinery, at the outlets. In slopes used as haulage roads where the dip or incline is ten degrees or more, there must be provided a separate traveling way; which shall be maintained in a safe condition for travel, and kept free from dangerous gases. No inflammable structure, other than a frame to sustain pulleys or sheaves, shall be erected over the entrance to any mine; and no inflammable structure for the purpose of storing coal shall be erected nearer than two hundred feet to any such opening. But this act shall not be construed to prohibit the erection of a fan and its approaches for the purpose of ventilation, nor of a trestle for the transportation of cars from any slope or other opening. All entrances to any place, not in actual course of working, where explosive gas is known to exist, shall be properly fenced across the whole width, so as to prevent all persons from entering the same. Hand rails and sufficient safety catches shall be attached to, and a sufficient cover overhead shall be provided on every cage used for lowering or hoisting persons in any shaft. The ropes, safety catches, links and chains shall be carefully examined every day that they are used by a competent person employed for that purpose by the mine owner, agent, manager or lessee, and any defect therein found shall be immediately remedied.

**Sec. 8. Stretchers to be kept.** It shall be the duty of every owner, agent, manager or lessee to keep at the mouth of every mine, or at such other places as may be designated by the Mine Inspector, stretchers properly constructed for the purpose of carrying away any employee working in and around the mine, who may be injured in and about his employment.

**Sec. 9. Pure air for ventilating.** Every owner, agent, manager or

lessee of coal or hydro-carbon mines, shall provide and maintain a constant and adequate supply of pure air.

(1) It shall be unlawful to use a furnace for the purpose of ventilating any mine wherein explosive gases are generated.

(2) The minimum quantity of air provided shall not be less than one hundred cubic feet per minute for each and every person employed in every mine, and three hundred cubic feet for each and every animal employed therein, and as much more as the circumstances may require.

(3) The ventilating current shall be conducted and circulated to the face of each and every working place through the entire mine, in sufficient quantities to dilute, render harmless and sweep away smoke and noxious or dangerous gases to such an extent that all working places and traveling roads shall be in a safe condition for working and traveling therein.

(4) All worked out or abandoned parts of any mine in operation, so far as practicable, shall be kept free from dangerous bodies of gases or water; and if found impracticable to keep the entire mine free from a dangerous accumulation of standing gases or water, the Mine Inspector shall be immediately notified.

(5) Every mine wherein are employed more than seventy-five persons, must be divided into two or more districts. Each district shall be provided with a separate split of pure air, and the ventilation shall be so arranged that not more than seventy-five persons shall be employed at the same time in any one current or split of air.

(6) All crosscuts connecting the main inlet and outlet air passages, when it becomes necessary to close them permanently, shall be substantially closed with brick or other suitable material laid in mortar or cement, whenever practicable, but in no case shall said cross-cut stoppings be constructed of plank, except for temporary purposes.

(7) All doors used in assisting or in any way affecting the ventilation shall be so hung and adjusted that they will close automatically. Main doors regulating the principal air currents of the mine shall be so placed in all cases where it is practicable, that when one door is open, another, which has the same effect upon the same current of air, shall be and remain closed.

(8) All permanent air bridges shall be built of such material and of such strength as the circumstances may require.

(9) The quantities of air in circulation shall be ascertained with an anemometer, or other efficient instrument; such measurements shall be made by the inside foreman or other competent person, at least once

every week. A report of these air measurements shall be forwarded to the Mine Inspector, together with the statement of the number of persons employed in each district, on or before the twelfth day of each month for the preceding month.

(10) For the purpose properly ventilating rooms and entries in coal mines, cross-cuts in rooms in mines where coal is over eight feet high, shall not be less than one hundred feet nor more than one hundred twenty-five feet apart; and cross-cuts in main entries shall not except in cases of urgent necessity, according to the opinion of the State Mining Inspector, be less than 70 feet nor more than 200 feet apart.

**Sec. 10. Water system.** Every owner, agent, manager or lessee of mines within the State of Utah shall provide and maintain a water system for the purpose of conducting water to the face of each and every working place, and throughout the entire open part of the mine, in sufficient quantities for sprinkling purposes to wet down the dust that shall arise and accumulate in and around the mine, *provided*, that in mines or parts of mines where by reason of the natural wet condition, or the moisture derived from the introduction of steam into the air currents, or both, such sprinkling may not be necessary. And it shall be the duty of the superintendent, mine foreman and Inspector to see to it that this is done.

**Sec. 11. Props, ties, rails and timbers to be furnished.** It shall be the duty of every person, owner, operator, superintendent, or mine foreman to furnish to the miners all props, ties, rails and timbers necessary for the safe mining of coal and for the protection of the lives of workmen. Such props, ties, rails and timbers shall be suitably prepared and shall be delivered within one hundred feet of the face of the room, or entry, free of charge.

**Sec. 12. Rules to be observed by mine owners and employees.** The following general rules shall be observed by every mine owner, operator, superintendent, mine foreman and employee within the State of Utah:

(1) Every owner or operator of every mine shall use every reasonable precaution to insure the safety of the workmen, in all cases and shall place the underground workings thereof under the charge and daily supervision of a person, who shall be known as "mine foreman," and who must hold a mine foreman's certificate.

(2) All accessible parts of abandoned portions of mines in which explosive gases have been found or are known to exist, shall be carefully examined by the mine foreman or his assistants, at least once in each and every week, and all danger existing therein from such gases shall be removed as soon as possible. A report of each and every examina-

tion shall be recorded in a book kept for that purpose, signed by the person making the examination.

(3) In all mines known to generate explosive gases, the mine foreman, or fire bosses, shall make a careful examination every morning of all working places and traveling ways, and all other places which might endanger the safety of the workingmen, within three hours prior to the time at which the workmen shall enter the mine. Such examination shall be made with the safety lamp. No person except those whose presence is necessary to prepare the mine for the entrance of the workmen, shall enter the mine or any part thereof, until the mine foreman or fire boss of his district shall report to him that his place is in a safe condition. The mine foreman or fire boss making such examination shall record the result of his examination in a book kept for that purpose, which book shall be opened to the inspection of the Mine Inspector and all employees.

(4) In any working place approaching any place where there is likely to be an accumulation of explosive gases, no light or fire other than locked safety lamps shall be allowed or used. Whenever safety lamps are required in any mine, they shall be the property of the owner or operator, and a competent person who shall be appointed for that purpose, shall examine every safety lamp immediately before it is taken into the mine for use. He shall clean, lock and otherwise ascertain if it is safe for use, provided that all fire bosses, or those who inspect the mine for the presence of explosive gases, must also personally examine their own lamps, and be responsible for their safe condition.

(5) Any miners or other persons having charge of a working place in any mine shall for his own protection keep the roof and sides thereof properly secured by timbering or otherwise, so as to prevent such roof and sides from falling and injuring him or his fellow workmen; and he shall not do any work or permit any work to be done under loose rock or dangerous material, except for the purpose of securing the same.

(6) No more than ten persons shall be hoisted or lowered at any one time in any shaft or slope. This, however, shall not prohibit the hoisting or lowering of ten or more persons at any one time on slopes where five or more loaded cars are regularly hoisted.

(7) No person in a state of intoxication shall be allowed to go into or loiter about the mine.

(8) Any miner or other workman who shall discover anything wrong with the ventilating current or with the condition of the roof, sides, timbers or roadway, or with any other part of the mine in general, such as would lead him to suspect danger to himself or his fellow

workmen, or the property of his employer, shall as soon as possible report the same to the mine foreman or other person being in charge of that portion of the mine.

(9) Any person or persons who shall knowingly or wilfully damage, or without proper authority remove or render useless any fencing, means of signaling, apparatus, instrument or machine, or shall throw open or obstruct any air way, or open any ventilating door and not leave the same closed, or enter a place in or about a mine against caution, or carry fire, open lights or matches in places where safety lamps are used, or handle without proper authority, or disturb any machinery or cars, or do any other act or thing whereby the lives or health of persons or the security of property in or about the mine are endangered, shall be deemed guilty of a misdemeanor.

(10) Gunpowder or any other explosive shall not be stored in a mine, and a workman shall not have at any time in any place more than one can or box containing six and one-quarter pounds of powder; *provided*, that under special conditions a larger amount may be allowed in a mine for immediate use, when approval of such action is made in writing by the State Inspector.

(11) Every person who has gunpowder or other explosives in a mine, shall keep it in a wooden or metallic box, securely locked, and such box shall be kept at least ten feet from the tracks in all cases where room at such a distance is available.

(12) In charging holes for blasting in coal, slate or rock in any coal or hydro-carbon mine, no iron or steel pointed needles shall be used, and a tight cartridge shall not be rammed into a hole in the coal, slate or rock with an iron or steel tamping bar, unless the bar is tipped with copper or other soft metal.

(13) The charge of powder or any other explosive in coal, slate or rock which has missed fire, shall not be withdrawn or the hole reopened, except where such holes are tamped with wet wood pulp.

(14) Before commencing work and also after firing of every blast, the miner working a room or other place in the mine, shall enter such room or place to examine and ascertain its conditions, and his assistant shall not go to the face of such room or place until the miner has examined the same and found it to be safe.

(15) No person shall be employed to blast coal or rock unless the mine foreman is satisfied that such person is qualified by experience to perform the work with ordinary safety, or unless he is placed at work with an experienced miner.

(16) Every passageway equipped with mechanical haulage used

by persons as a regular traveling way for travel, and also at the same time for transportation of coal or other material, shall be of sufficient width to permit persons to pass moving cars with safety, but if found impracticable to make any passageway of sufficient width, then holes of ample dimensions, and not more than one hundred and fifty feet apart shall be made on one side of said passageway. The said passageway and safety holes shall be kept free from obstructions and the roof and sides of the same shall be made secure. Safety holes when necessary shall also be made at the bottom of all slopes and planes and kept free from obstruction to enable the footman to escape readily in case of danger.

(17) It shall be unlawful for any owner, operator, superintendent or mine foreman, of any mine which generates explosive gases, to employ any person who is not competent to understand the regulations of any mine evolving explosive gases.

(18) No person or persons shall be permitted to enter any dry gilsonite or elaterite mine with any kind of light other than an electric or other safety lamp.

(19) For the purpose of making known the provisions of this act to all persons employed in and around the mines the owner and operator of each and every mine within the State, to which this act applies shall post in a conspicuous place at or near the entrance of the mine, where they may be conveniently read by all persons employed therein, the foregoing rules, and keep the said rules posted at all times.

(20) Whenever the Mine Inspector discovers in any mine in which blasting of the coal is allowed during working hours that the air is becoming vitiated by unnecessary blasting of the coal, he shall have the power to regulate the use of the same, and to designate at what hour of the day blasting may be permitted, except that where coal is shot off the solid without undermining at least three periods for shooting shall be allowed during each working day.

**Sec. 13. Further duties of Mine Inspector.** The duties of the Mine Inspector, other than those heretofore enumerated, shall be as follows:

(1) It shall be the duty of the Mine Inspector to make a careful and thorough inspection of each coal and hydro-carbon mine operated within the State at least once every three months, and oftener if the condition of the mines require his attention. He shall make an annual report to the Governor, showing the condition of each and every coal and hydro-carbon mine in the State. He shall examine into the conditions as regards the safety of the workmen of such mine working, machinery,



ventilation, drainage and the method of lighting and using lights, and into all other matters connected with the working safety of persons in such mine, and give directions providing for the better health and safety of persons employed in or about the same. The owner or operator is hereby required to freely permit such entry, inspection, examination, inquiry and exit, and to furnish a guide when necessary. The said Inspector shall make a record of his visit, noting the time of the inspection and the material circumstances of the same, and shall also notify the owner or operator of the mine by a written report of the condition of the mine at the time of such inspection.

(2) If the Inspector finds that a mine is not properly worked, or is not furnished with proper machinery or appliances for the safety of the miners and all other employes, it shall be his duty to give written notice to the owner or manager of such mine that it is unsafe, and such notice shall specify in what particulars the mine is unsafe, and shall direct the owner or manager thereof to make such improvements as are necessary within a reasonable period. If the improvements are not made as required in the notice, it shall be unlawful for the owner or manager to operate such mine until such improvements are completed.

(3) No explosive oil shall be used or taken into coal or hydro-carbon mines of Utah for lighting purposes, except when used in approved safety lamps, or when used by day men when diluted with a non-explosive animal or vegetable oil. And oil for such purpose shall not be stored or taken into the mines in quantities exceeding five gallons, in tight cans approved by the State Coal Mine Inspector. The oiling or greasing of cars inside of the mines is strictly forbidden unless the place where said oil or grease is used is thoroughly cleaned at least once every day to prevent the accumulation of waste oil or grease on the roads or in the drains at that point, and not more than one barrel of lubricating oil shall be permitted in the mine at any one time. Only a pure animal oil or pure cotton-seed oil, or oils, as shall be as free from smoke as pure animal oil or pure cotton-seed oil shall be used for illuminating purposes in any coal or hydro-carbon mine, except as above provided. Any person found using explosive or impure oil contrary to this section shall be prosecuted as provided for in section 16 of Coal Mining Laws of Utah.

**Sec. 14. Speaking tubes to be provided.** In shaft or slope mines where persons are lowered or hoisted by machinery, a metal speaking tube or other suitable appliance shall be provided in all cases so that conversation or signalling may be carried on through the same from the top to the bottom of the shaft or slope.

**Sec. 15. Inspector to be notified of accident. Inquest.** Whenever

by reason of an explosion or any other accident in any coal or hydrocarbon mine or the machinery connected therewith, loss of life or serious personal injury shall occur, it shall be the duty of the person having charge of such mine or colliery to give notice thereof promptly to said Mine Inspector, and if any person is killed thereby, to the coroner of the county, who shall give due notice of the inquest to be held. If the coroner shall determine to hold an inquest, the Inspector shall be allowed to testify, and offer such testimony as he shall deem necessary to thoroughly inform the said inquest of the causes of death, and the said Inspector shall have authority at any time to appear before such coroner and jury and question or cross-question any witness, and in choosing the jury for the purpose of holding such inquest, it shall be the duty of the coroner to impanel at least two men experienced in coal mines on such jury. It shall be the duty of such Inspector, when possible, upon being notified as herein provided, to immediately repair to the scene of the accident and give such directions as may appear necessary to secure the future safety of the men, and he shall proceed to investigate and ascertain the causes of the explosion or accident, and make a record thereof, which he shall file; and to enable him to make the investigation, he shall have the power to compel the attendance of persons to testify and to administer oaths and affirmations; the cost of such investigation shall be paid by the county in which the accident occurred, in the same manner as the costs of coroners' inquests are paid by law.

**Sec. 16. Board of Examiners for mining boss.** On the petition of the Mining Inspector, the district court in any county in this State shall at the first term, after the approval of this act, appoint an examining board for such county, consisting of the State Inspector of Coal Mines, an operator of a coal mine and a coal miner, who shall be citizens of the United States, and the latter two of which board shall have at least five years of experience in the mines of the State, whose duty it shall be to examine any person applying thereto as to his competency and qualifications to discharge the duties of mining boss; said board of examiners shall meet at the call of the Inspector, and they shall grant certificates to all persons whose examination shall disclose their fitness for the duties of mining boss, and such certificate shall be sufficient evidence for the competency and qualification of the holders for duties of said office; *provided*, that any person who shall have been employed as a miner at least five years in the coal mines of Utah and as a mining boss continuously by the same person or firm or corporation, for the period of one year preceding the approval of this act, may be entitled, if in the judgment of the Inspector he be qualified, to a certificate without undergoing such examination; but he shall not be employed by any other person or firm or corporation without having undergone such examination. The members of the examining board, other than the Inspector, shall hold the office for the period of two years from

the date of their appointment, and shall receive four dollars per day for each day necessarily and actually employed, and actual and necessary traveling expenses, while employed in their official duties, to be paid by the State. Vacancies in the membership of the board shall be filled by the court of the proper county except the vacancy in the office of Inspector. Sessions of the examining board shall not exceed three days in each quarter, and for any certificate granted the board shall receive the sum of one dollar, the same to be paid into the State Treasury. No person shall act as fire boss unless granted a certificate of competency by the State Inspector of Coal Mines. After the approval of this act no owner, operator, contractor, lessee or agent shall employ any mining boss or fire boss who does not have the certificate of competency required. Said certificate shall be posted up in the office of the mine, and if any accident shall occur in any mine in which a mining boss or a fire boss shall be employed who had no certificate of competency, as required by this chapter, by which any miner shall be killed or injured, he or his estate shall have a right of action against such operator, or owner, lessee, or agent, and shall recover the full damage sustained; in case of death such action to be brought by the administrator of his estate, within three years from the date of accident, the proceeds recovered to be divided among the heirs of the deceased according to law.

**Sec. 17. Act not to apply where less than six men employed.** The provisions of this act shall not apply to or affect any coal or hydrocarbon mine in which not more than six men are employed in twenty-four hours.

**Sec. 18. Penalties.** The neglect or refusal to perform the duties required to be performed by any section of this act, or the violation of any of the provisions hereof, shall be deemed a misdemeanor, and any person so neglecting or refusing to perform such duty or violating such provisions, shall, upon conviction, be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars for each and every such offense.

**Sec. 19.** Chapter 2, title 42 of the Revised Statutes of Utah, 1898, as amended by chapter 85, laws of Utah 1901 is hereby repealed.

Approved this 17th day of March, 1905.



## CHAPTER 124.

## DRAINAGE DISTRICTS.

An Act to amend sections, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, and 779, Revised Statutes of Utah, 1898, relating to drainage districts.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That sections 760 to 779, both inclusive, Revised Statutes of Utah 1898, be, and they are hereby amended to read as follows:

760. **Who may propose organization.** Whenever fifty or more persons constituting a majority, of the holders of title or of evidence of title, to lands susceptible of one mode of drainage from a common source and by the same system of works, desire to provide for the drainage of the same, they may propose the organization of a drainage district under the provisions of this act. The equalized county assessment roll completed last preceding the presentation of a petition for the organization of a drainage district shall be sufficient evidence of title for the purposes of this act.

*Amended  
ch 108  
Laws 190-*

761. **Petition. Presentation. Organization.** A petition shall first be presented to the Board of County Commissioners of the county in which the lands, or the greatest portion thereof, are situated, signed by the required number of holders of title, or of evidence of title, and shall set forth and particularly describe the boundaries of the proposed district, and shall pray that the same may be organized under the provisions of this title. The petition shall be presented at a regular meeting of the Board of County Commissioners and, for at least two weeks before the time at which the same is to be presented, shall be posted in three or more public places in the district or published in some newspaper published or having a general circulation in the county, together with a notice stating the time at which the same will be presented. If any portion of the proposed district shall lie within another county or counties, then the petition and notice shall, as above provided, be posted or published in a newspaper, published or having a general circulation in each of such counties.

*do*

762. **Hearing. Boundaries of district.** When the petition is presented, the Board of County Commissioners shall hear it, and may adjourn the hearing from time to time, not exceeding four weeks in all. On the final hearing any person whose lands are susceptible of drainage by the proposed system, and who expresses in writing a desire to be included within that system, may upon application to the Board and in

*do*

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its discretion, have his lands included in the district. On the final hearing the Board shall by resolution establish and define the boundaries of the district as proposed in the petition or as amended as hereinbefore provided, fix the number of directors, which shall not be less than three nor more than five and who shall be free-holders and residents of the county, and provide for the election of such directors and the organization of said district as hereinafter provided.

*1-2*  
**763. Election called.** The Board shall then give notice of an election, for the purpose of determining whether or not the proposed district shall be organized. The notice shall describe the boundaries established, and shall designate a name for the district. It shall be posted or published, as prescribed in the case of a petition, and shall state the time and place of the election and that ballots shall be cast containing the words "drainage district—yes," or "drainage district—no," and the names of persons to be voted for as directors. No person shall be entitled to vote at any election held under the provisions of this title, unless he shall be a free-holder in the district. The Board of County Commissioners shall appoint the judges for the first election.

*1-2*  
**764. Canvass of votes cast. Organization completed.** The Board of County Commissioners shall meet on the second Monday next succeeding the election and proceed to canvass the votes cast. If upon such canvass it appears that at least two-thirds of all the votes cast are "drainage district—yes," the Board shall, by order entered on its minutes, declare the district duly organized as a drainage district, under the name and style designated, and shall declare the persons receiving, respectively, the highest number of votes for such several officers to be duly elected. No action shall be commenced nor maintained, nor defense made, affecting the validity of the organization, unless commenced or made within one year after the entering of such order. The Board shall cause a copy of the order, duly certified, to be immediately filed for record in the office of the county recorder of each county in which any portion of such lands is situated, and must also immediately forward a copy thereof to the county clerk of each county in which any portion of the district may lie. The organization of the district shall then be complete, and said district shall thereafter constitute a body corporate with power to sue and be sued. Thereafter no other district shall be formed so as to include lands in the organized district without the consent of the Board of Directors of the latter.

*1-2*  
**765. Subsequent Elections.** Subsequent elections shall be held biennially, and the judges thereof shall be appointed by the Board of Directors of the district. The number of directors may then be changed from three to five, or from five to three by a majority vote of the district electors.

**766. Bonds.** Each director shall hold office for two years, and until his successor is elected and qualified. He shall first, however, subscribe the official oath and execute an official bond in the sum of five hundred dollars. Such bond shall be approved by the judge of the district court of the county and filed with the county clerk where the organization shall have been effected. Bonds herein provided for shall be in the form prescribed by the law for the official bonds of county officers. *da*

**767. Directors. President. Secretary. Term. By-laws. Powers of board.** Within thirty days after their election and qualification, the directors shall meet and organize as a board, and shall elect a president, a secretary, and a treasurer, from among their own number. Each of such officers shall hold office during the pleasure of the Board. The Board of Directors shall have power to adopt a code of by-laws governing the conduct of the business and affairs of the district as a corporation in connection with its association with individuals in and outside of the district and regulating the use of its drainage system by outsiders. It shall also have power to make and execute all necessary contracts, to employ and appoint such agents, officers and employees as may be required, prescribe their duties and generally to perform all such acts as shall be necessary to fully carry out the purposes of this title. The said Board and its agents and employees shall likewise have the right to enter upon any lands to make surveys and may locate the necessary drainage works and the line for any drainage canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location. It shall have the right also to acquire on behalf of said district by purchase or condemnation or other legal means, all lands and other property necessary for the construction, use, maintenance, repair, and improvement of said canal or canals, drains, and works constructed (including canal, drains, or drain-ditches being constructed by private owners) and all necessary appurtenances. In case of necessity for condemnation proceedings the board shall proceed in the corporate name of the district, under the provisions of the laws relating to eminent domain. *da*

**768. Duties of President.** It shall be the duty of the president to preside at meetings of the board and sign all warrants ordered by it to be drawn upon the treasury for drainage money. In case of the absence or disability of the president, his duties shall be performed by a president pro tem., duly elected. *da*

**769. Duties of secretary.** It shall be the duty of the secretary to attend meetings of the Board, to keep an accurate journal of its proceedings, to have the care and custody of its records and papers not otherwise provided for, to countersign warrants drawn upon the treasurer, and to prepare and submit to the Board an annual statement, un- *da*

the direction of the Board, for which duly verified vouchers must be presented.

**778. Construction of works.** After adopting a plan of said drainage canal or canals, drains, drain ditches, and works, the Board of Directors shall proceed to construct the works under its own superintendence, or may give notice, by publication thereof not less than twenty days; in one newspaper published or having a general circulation in each of the counties composing the district, or in such other newspaper as the Board may deem advisable, calling for bids for the construction of such work or any portion thereof; if less than the whole work is advertised, then the portion so advertised must be particularly described in such notice. Said notice shall set forth that plans and specifications can be seen at the office of the Board, that the Board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and place appointed, and the same shall be opened in public. As soon as convenient thereafter the Board shall let said work, either in portions or as a whole, to the lowest responsible bidder, or it may reject any or all bids. Contracts for material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract may be awarded shall enter into a bond with good and sufficient sureties, to be approved by the Board, payable to said district for its use, for twenty-five per cent of the amount of the contract price, conditioned for the faithful performance of said contract. The work shall be done under the direction and to the satisfaction of the engineer of the Board and be approved by the Board.

**779. Limitation on Board to contract indebtedness.** The Board of Directors, or other officers of the district shall have power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this act. A debt or liability incurred in excess of express provisions shall be and remain absolutely void, except that for the purpose of organization, or for the purposes of this act the Board may before the collection of the first assessment incur an indebtedness not exceeding in the aggregate the sum of two thousand dollars, and it may cause warrants of the district to issue therefor, bearing interest not exceeding seven per cent per annum.

Sec. 2. This act shall take effect upon approval.

Approved this 17th day of March, 1905.



## CHAPTER 125.

## TIME FOR MAKING ASSESSMENTS.

An Act amending sections 2516, 2517, 2519, and 2596 of the Revised Statutes of Utah, 1898, relating to the time of making assessments for purposes of taxation and as to the time when lien for taxes attaches.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That section 2516 of the Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

2516. **Property assessed as of second Monday in January.** The assessor must before the first Monday of May in each year, ascertain the names of all taxable inhabitants and all property in the county, subject to taxation, except such as is required to be assessed by the State Board of Equalization, and must assess such property to the person by whom it was owned or claimed, or in whose possession or control it was at 12 o'clock M., of the second Monday in January, next preceding, and at its value on that date; *provided*, that nothing herein shall be taken to prevent the assessor from assessing any personal property at any time before the second Monday in January in case he shall have cause to believe that the owner thereof is likely to avoid payment of the tax thereon by disposing of the property or by the removal thereof from the State. Credits must be assessed as provided in section 2518 and sub-division 6 of section 2517. No mistake in the name of the owner or supposed owner of property renders the assessment thereof invalid.

*Amended 4-7-1907*

2517. **Assessor may require statement.** He may require from any person a statement under oath, setting forth specifically all the real and personal property owned by such person, or in his possession or under his control, at twelve o'clock M., on the second Monday of January. Such statement must be in writing, showing separately:

1. All property belonging to, claimed by, or in the possession or under the control or management of such person.

2. All property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member.

3. All property belonging to, or claimed by, or in the possession of, or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent.

4. The county in which such property is situated or in which it is liable to taxation, and, is liable to taxation in the county in which the

statement was made, also the city, town, school district, road district, or other revenue districts in which it is situated.

5. A statement of all lands in parcels or sub-divisions, not exceeding six hundred and forty acres each, and the sections and fractional sections of all tracts of land containing more than six hundred and forty acres, which have been sectionized by the United States government; improvements, and personal property, including all vessels, steamers, and other water craft, and all taxable State, county, city, or other municipal or public bonds, and the taxable bonds of any person, firm, or corporation, and the deposited money, gold dust, and other valuables, and the names of the persons with whom such deposits are made, and the places in which they may be found, all mortgages, deeds of trust, contracts, and other obligations by which a debt is secured, and the property affected thereby.

6. All solvent credits, secured or unsecured, due or owing to such person, or to any firm of which he is a member, or due or owing to any corporation of which he is president, secretary, cashier, or managing agent, deducting from the sum total of such credits only such debts, secured or unsecured, as may be owing by such person, firm, or corporation; *provided*, that mutual benefit building societies incorporated under the laws of this State or of the Territory of Utah, shall be allowed to deduct from their taxable credits the amount due to the members (stockholders) of such societies.

**2519. Blank statements to be furnished assessors.** The State Board of Equalization must furnish the assessor of each county with blank forms of statements provided for in section 2517, affixing thereto an affidavit, which must be substantially as follows: "I, . . . . ., do swear that I am a resident of the county of . . . . ., and that my postoffice address is . . . . .; that the above list contains a full and correct statement of all property subject to taxation, which I, or any firm of which I am a member, or any corporation, association, or company of which I am president, cashier, secretary, or managing agent, owned, claimed, possessed, or controlled, at twelve o'clock M., on the second Monday of January last, and which is not already assessed this year; and that I have not in any manner whatsoever transferred, or disposed of any property, or placed any property out of said county or out of my possession for the purpose of avoiding any assessment upon the same, or making this statement; and that the debts therein stated as owing by me are justly due and owing to others."

The affidavit to the statement on behalf of the firm or corporation must state the principal place of business of the firm or corporation, and in other respects must conform substantially to the preceding

form. The time when taxes become delinquent, and the time of the meeting of the County Board of Equalization must be stated in such form.

**2596. Tax upon personal property a lien upon realty.** Every tax upon personal property is a lien upon the real property of the owner thereof, from and after twelve o'clock M., of the second Monday in January of each year.

Approved this 17th day of March, 1905.

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## CHAPTER 126.

### RESERVOIR FUND.

**An Act making an appropriation out of the State Reservoir Land Grant Fund and repealing chapter 120 laws of Utah, 1903 entitled reservoir sites.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Appropriation from reservoir fund.** The sum of four hundred and forty-four dollars, or so much thereof as may be necessary, is hereby appropriated out of the State Reservoir land grant fund to the State Board of Land Commissioners for indebtedness incurred in excess of the amount specified to be spent on each reservoir as provided for in section one of chapter 120 of the laws of Utah of 1903.

**Sec. 2.** That chapter 120 of the laws of Utah, 1903, be and the same is hereby repealed.

Approved this 16th day of March, 1905.

**CHAPTER 127.****FEES OF SECRETARY OF STATE.**

**An Act to amend section 965, Revised Statutes of Utah, 1898, as amended by chapter 60, laws of Utah, 1901, relating to fees to be collected by the Secretary of State.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 965, Revised Statutes of Utah, 1898, as amended by chapter 60, laws of Utah, 1901, be, and the same is hereby amended to read as follows:

**965. Fees of Secretary of State.** For a copy of any law, resolution, record, or other document, or paper on file in his office, fifteen cents per folio.

For affixing certificate and Seal of State, one dollar.

For receiving and filing each original or certified copy of articles of incorporation, he shall charge and collect the sum of twenty-five cents on each one thousand dollars of capital stock of any company or corporation; *provided*, that the same sum shall be charged and collected for receiving and filing certified copies of articles of incorporation or of amendments increasing the capital stock of foreign corporations hereafter organized for the purpose of operating property or carrying on business in this State. No fee shall be charged for filing certified copy of articles of incorporation organized not for pecuniary profit, nor for filing certified copies of articles of incorporation of any Water Users' Association which is organized in conformity with the requirements of the United States under the reclamation act of June 17, 1902, and which under its articles of incorporation is authorized to furnish water only to its stockholders.

For filing each certified copy of an amendment to articles of incorporation increasing the capital stock of any corporation, and issuing certificate thereof, twenty-five cents for each one thousand dollars of increase of such capital stock.

For filing each certified copy of other amendments to articles of incorporation, and issuing certificate thereof, five dollars.

For receiving and filing articles of incorporation and by-laws of foreign corporations not included in the proviso to the third sub-division above, twenty-five dollars.

For issuing each certificate of incorporation, five dollars.

For issuing certificate of compliance on the part of a foreign corporation, five dollars.

For issuing each certificate of incorporation not organized for pecuniary profit, one dollar.

For receiving and recording each official bond, two dollars.

For each commission signed by the Governor, five dollars; provided that no charge shall be made for commissions for public officers, serving without compensation.

For filing each trade mark, three dollars.

For filing each annual statement of insurance company, twenty-five dollars.

For filing notice of appointment of agent, five dollars.

For filing each annual tax statement of insurance company, two dollars.

For issuing certificate of authority to each agent or solicitor of insurance company, five dollars.

For certificate of renewal of authority to agent or solicitor of insurance company, two dollars.

For issuing certificate of authority to each insurance company, five dollars.

For filing list of authorized attorneys for each insurance company, one dollar.

For preparing abstract of annual statement of each insurance company and certifying same, five dollars.

For filing annual statement of each building and loan association, five dollars.

For issuing certified copy of annual statement of building and loan association, two dollars.

For issuing certificate of authority to building and loan association, three dollars.

For filing and certifying private banker's preliminary statement, twenty-five dollars.

For filing each quarterly statement of each bank, and issuing a certified copy thereof, five dollars.

For receiving and filing an acceptance of the provisions of the constitution on the part of an incorporated company and issuing certificate thereof, three dollars.

For each warrant of arrest issued by the Governor and attested by

... State or Terri-

... documents,

... for, five

... dollar: *pro-*  
... County officer  
... pertaining to the  
... resolution pass-

...

## CHAPTER 128.

### REGISTRATION OF VOTERS.

*As amended with acts 200, 201, 214 and 262. Revised Statutes of Utah, 1898, relating to the registration of voters.*

*Repealed by the Legislature of the State of Utah.*

That sections 200, 201, 214 and 262, Revised Statutes of Utah, be and the same are hereby amended to read as follows:

200. **Registration only at office. Registration days.** It shall be the duty of the registration agents, when called upon to do so at their respective offices and not elsewhere, at any time between the hours of eight o'clock A. M. and five o'clock P. M. of the second Monday and third Tuesday and of the Saturday of August, and of the fourth Tuesday and of the fourth Wednesday, and of the third Tuesday and of the first Tuesday, and of the first Wednesday, prior to any general election, to receive and register the names of all persons applying for registration, who on election day will be legally qualified and entitled to vote in that election district, according to the provisions of law under which such election may be held.

201. **Entries on official register. Request to give residence.** Registration agents must enter upon the official register, under the proper

heading, the date of registration, the names alphabetically arranged according to surnames, with the first or given name in full, the age and nativity of the elector, together with the location of residence of elector as directed in section seven hundred and ninety-nine, and when the person so registered is of foreign birth, the fact of the exhibition of or failure to exhibit, his certificate of naturalization, or a certified copy thereof, must be noted in the column provided for that purpose, which list, properly entered, as in this section required, is known as the "official register" of electors of their respective districts. If any person fails or refuses to give his residence, with the particularity required in this chapter, he must not be registered. *Provided*, that should any person applying to be registered refuse to give his or her age, when requested so to do by the registry agent, it shall be sufficient to entitle him or her to registration if they take and subscribe to the registration oath required by section 803 of this chapter, and in such case the registry agent will enter in the proper column the fact that such person will be twenty-one years and upwards on the day of election.

816. **Official register revised for each general election.** Prior to the time for registering voters at each general election, the county clerks of the respective counties of the State shall prepare an official register of the voters of each election district of his county by making a list in alphabetical order of all persons who voted at the last general and municipal elections, as shown by the checked copies of the official register used, or poll lists made, at such elections, which official register shall be delivered to the registry agent of the district at least 30 days prior to the first day of registration and shall be revised by adding the names of all persons registered on the proper days prior to the election. For municipal elections, the "official register" of the last general election shall be revised by adding thereto the names of all persons registered on the proper days therefor prior to the municipal election. For all special and school elections there shall be no special registration of voters, but the "official register" last made or revised shall constitute the "official register" for such special or school election. *Chap 157-01*

868. **Filing returns. Recorder to transmit poll list, etc., to county clerk.** As soon as the returns are canvassed, the clerk or recorder must file in his office, the poll book, lists, and the papers produced before the board from the package mentioned in the preceding section; *provided* that in municipal elections the town clerk or city recorder shall on or before the first day of June, prior to the general election, transmit to the county clerk the checked register and poll list used at such election.

Approved this 17th day of March, 1905.

**CHAPTER 129.****EXPERIMENTAL FARMS.**

**An Act making further appropriation for the experimental farms provided for in chapter 41, laws of Utah, 1903.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Appropriation.** That for the purpose of further carrying out the provisions of chapter 41, laws of Utah, 1903, the sum of fifteen thousand five hundred dollars is hereby appropriated from any moneys in the State treasury, not otherwise appropriated.

**Sec. 2.** This act shall take effect upon approval.

Approved this 17th day of March, 1905.

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**CHAPTER 130.****RECORDING PLATS IN CEMETERIES.**

**An Act providing for the recording of plats of all cemeteries and the evidence of burial rights therein.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Plats of cemeteries must be recorded.** Within six months after the passage and approval of this act, the executive officers in control of all cemeteries and all individuals offering burial lots for sale in any county of this State shall file and cause to be recorded in the office of the county recorder of the county within which said cemeteries are situated an accurate plat of the cemeteries or cemetery under their control, which said plat shall clearly show the sections of burial lots which have been disposed of and the names of the persons owning or holding the same and the sections of burial lots held for disposal, and thereafter the executive officers of any of said cemeteries shall file additional plats of any additions to said cemeteries before offering for sale any burial lots therein, the said recorder shall not collect any fees for filing and recording the said original plats.

**Sec. 2. Certificate of burial rights.** That every purchaser of a lot or burial rights therein shall be furnished by the executive officers or individual owner of said cemeteries with a certificate of burial rights



properly signed by them and the same may be filed and recorded by the county recorder of the county within which the said cemetery is situated.

**Sec. 3. Transcripts of burial rights to be filed with recorder.** (On the first day of January and of July in each year the executive officers of all cemeteries and individual owners offering burial lots for sale shall file with the county recorder of the county within which said cemeteries are situated a transcript duly certified by such executive officers of any and all deeds or certificates of sale or evidences of burial rights issued by them during the preceding six months. The said county recorder shall file said abstract without charge and make any and all necessary notations upon the plats of said cemetery theretofore filed with him as in section 1 of this act provided.

**Sec. 4. Penalty.** That a failure to comply with the requirements of this act by the executive officers or individual in control of any cemetery shall be a misdemeanor.

Approved this 17th day of March, 1905.

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## CHAPTER 131.

### POWERS OF CORPORATIONS.

An Act to amend section 322 Revised Statutes of Utah, 1898, and section 338, Revised Statutes of Utah 1898, as amended by chapter 94, laws of Utah, 1903, and as amended by an act approved March 3, 1905 and sections 340, and 444, Revised Statutes of Utah, 1898, relating to the powers of corporations, the manner of making amendments to articles of incorporations; the manner of forming consolidated corporations; authorizing railroad companies to issue bonds and secure the same by execution of trust deeds or mortgages; and defining what shall be deemed railroad companies; and approving and validating amendments made to articles of incorporations and the organization of consolidated corporations, as well as acts done thereunder.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 322 Revised Statutes of Utah 1898 and section 338 of the Revised Statutes of Utah, 1898, as amended by chapter 94, laws of Utah, 1903, and as amended by an act approved March 3, 1905 and sections 340, and 444 of the Revised Statutes of Utah, 1898, be and the same are hereby amended to read as follows:

**322. Powers enumerated.** The corporation in its name shall have power to make all contracts necessary and proper to effect its purposes and conduct its authorized business; to sue and be sued; to have a seal,

which it may alter at pleasure; to buy, use, mortgage, sell, or otherwise dispose of personal property; to buy, receive, use, sell, mortgage, lease or bond, or otherwise dispose of all such real estate as may be necessary, useful, or desirable for it to own, use or dispose of for its purposes. Such corporation shall have the right to disburse out of profits actually earned and on hand such dividends, from time to time, as the directors may deem prudent. It may make all such by-laws, rules and regulations not inconsistent with law or with other corporate rights and vested privileges as may be necessary to carry into effect the object of the association, and such by-laws, rules and regulations, may be made in a general meeting of the stockholders or by the Board of Directors. And any corporation now existing, or that hereafter may be organized under the laws of this State for the purpose of mining, or the exploration or development of mining property, including lands bearing metal, stones, limestone, oil, petroleum, asphalt, and other hydro-carbons, shall, in addition to the powers above enumerated, have the power to purchase, take on bond or lease, or in exchange or locate, or otherwise acquire any lands, mines, options, territory, fields or claims, and to sell, convey, lease, bond, mortgage, dispose of, or otherwise deal in the same to such extent as the Board of Directors may deem prudent, subject always to the provisions of the articles of incorporation and by-laws; *provided*, that in case the articles of incorporation do not provide for the sale or other disposition of the property of the corporation, then the act of the Board of Directors shall not be valid or binding on the corporation until confirmed by a vote of a majority in amount of the stock outstanding at a meeting of the stockholders duly called to consider such action of the board. When the articles of association provide that the property of the corporation may be sold, mortgaged or otherwise disposed of by the directors or by the stockholders, sales made in accordance therewith shall be binding on the company.

**338. Amendments. What permissible.** The articles of incorporation of any corporation now existing or that hereafter may be organized under the laws of this State may be amended in any respect conformable to laws of this State by a vote representing at least a majority in amount of the outstanding capital stock thereof at a stockholders' meeting called for that purpose, as prescribed in section 339 of the Revised Statutes of Utah, 1898, as amended by chapter 94, laws of Utah, 1903; *provided*, that if all the stockholders vote in favor of such amendment at any meeting of the stockholders the notice required by section 339 aforesaid need not be given; and *provided further* that the original purpose of the corporation shall not be altered or changed without the approval and consent of all the outstanding stock; *provided, further*, that the adding to the purposes or object, or extending the power and

business of the corporation, shall not be deemed a change of the original purpose of the corporation; *provided, further*, that the capital stock of the corporation shall not be diminished to an amount less than fifty per cent in excess of the indebtedness of the corporation; and *provided further*, that the personal or individual liability of the holder of full-paid capital stock for assessments or for the indebtedness or obligation of the corporation shall not be changed without the consent of all the stockholders.

**340. Consolidation. What permissible. How made.** Corporations of the same kind, engaged in the same general business, in the same vicinity heretofore created under the laws of the Territory or State of Utah, or hereafter organized under the laws of this State, may consolidate upon such terms and conditions conformable to the law as shall be agreed upon by a vote representing at least a majority in amount of the outstanding capital stock of each of said corporations, at a special meeting of each thereof, upon notice stating the time, place and object of such meeting, published for at least thirty days prior thereto in a newspaper having general circulation within the county or counties where each corporation has its principal place of business; *provided*, that corporations organized for the purpose of owning and operating street or interurban railroads, and corporations organized for manufacturing, producing and selling light, power and heat by electricity, gas, steam or other means, shall be for the purpose of this section, deemed corporations of the same kind. Such consolidation may be effected either by joining two or more corporations together, or by the formation of a new corporation under the laws of this State for the purpose of buying in and taking over and operating the properties, rights, and franchises of the corporations desiring to consolidate. And if by purchase, such purchase may be made at any public sale or sales made by judicial proceedings, or in the enforcement of mortgages or liens, or at private sale; *provided*, that if such sale is made other than by judicial procedure or in the enforcement of mortgages or liens, the same shall be approved by at least a majority in amount of the outstanding capital stock of the selling companies, unless the articles of association provide how and by whose authority the sale of the company's property shall be made, then in that event, in accordance with such provision. If such consolidation is effected by forming a new corporation to purchase, as aforesaid, the articles of association of such new company shall contain, in addition to the requirements of section 315 of the Revised Statutes of Utah, 1898, as amended by chapter 2, laws of Utah, 1901, as amended by an act of the Legislature of the State of Utah, approved February 25, 1905, a provision that the company is formed for the purpose of purchasing in and taking over the properties, rights, privileges, and franchises of such corporations so desiring to consolidate, and if one or more of the corporations is a street, suburban,

or interurban railroad, such articles shall contain a general statement of the termini of such road or roads, with their length respectively, as near as may be. Such articles of association of such new corporation organized to purchase the assets of the old companies shall be filed in the office of the Secretary of State, and upon his filing such articles and issuing a certificate of incorporation to such company, the association shall without further act be deemed and held to have been duly formed and created a corporation with all the powers specified in such articles of association; *provided*, that they are not inconsistent with the terms of this act or the other existing laws of this State relating to corporations organized for general purposes, or the terms of the Constitution of this State. If the consolidation is effected in the usual manner of joining two or more companies together without the previous formation of a new corporation for the purpose of purchasing in the properties of the corporations, such consolidation shall be evidenced by a certificate under the corporate seals of the respective corporations, signed by the president and secretary of each, briefly reciting the act or acts sought to be accomplished, and describing, in a general way, the property sought to be consolidated, together with the name of the corporation thus formed by amalgamation or consolidation, with such other provisions as the law may require to be inserted in the original articles of incorporation, and such others, being conformable to law, as may be deemed necessary to perfect such consolidation, which certificate shall be filed and recorded in the manner provided for the filing and recording of original articles of incorporation, and a copy thereof, duly certified by the county clerk, shall be filed in the office of the Secretary of State, whose certificate shall constitute such consolidated corporations, a new corporation. Such new consolidated corporation, whether formed by organizing a new corporation to purchase or by strict consolidation, shall have the right to work, operate and maintain the properties thus acquired, and all the rights, privileges, and franchises and powers named in such new articles of incorporation, including those formerly enjoyed by the original corporations.

444. **Railroad bonds and mortgages.** Railroad companies organized or existing or that may hereafter organize under the laws of this State shall have power to issue bonds for such sums, and payable at such times and places, and drawing interest at such rates, the board of directors may deem expedient; and, to secure the payment of such bonds and interest, shall have power to execute trust deeds or mortgages, or both, upon the whole or any part of their lines, real property, rolling stock, machinery and other personal property, franchises, income, and profits acquired or that thereafter may be acquired. Such bonds and trust deeds or mortgages shall be valid according to their terms, notwithstanding the fact that the bonds may be sold below par value. A

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trust deed or mortgage made as aforesaid, to operate as notice to third persons, shall be recorded in the office of the recorder of each county in which any of the property affected by such trust deed or mortgage may be situated, and need not be left or filed in said office. Any such mortgage or trust deed when made shall be a valid lien upon the real and personal property and chattels included therein, notwithstanding the fact that the possession of such personal property may remain with the mortgagor; and when recorded as aforesaid, such record shall be notice to all persons of the existence of such mortgage or deed of trust according to its terms; *provided*, that corporations organized under the laws of this State, owning and operating street, suburban or interurban railroads, including those that own and operate, with such railroads, power and lighting plants, shall be deemed railroad companies, and their properties, railroad properties, within the meaning of this section.

Sec. 2. **Amendments validated.** Amendments made by corporations to their original articles of incorporation, in accordance with the laws of this State, or the provisions of this act, are hereby approved and validated; and all corporations organized by consolidating their properties, rights and franchises, whether by strict consolidation or by the sale of the property and franchises of two or more corporations to one corporation in accordance with the provisions of the laws of this State, or the provisions of this act, are hereby approved and validated, and said corporations are hereby declared to be bodies corporate under the name and style in such consolidating articles set forth, with the rights and powers therein enumerated, and such corporate existence shall date from the time when such consolidating companies filed their articles of association, or copies thereof, with the Secretary of State, and received a certificate of incorporation, and all acts done by such corporations within the powers specified in their articles of association are hereby validated.

Sec. 3. This act shall take effect upon approval.

Approved this 17th day of March, 1905.

## CHAPTER 132.

## EXPERIMENT STATION.

An Act providing for the establishment of a Central Utah experiment station, and placing the same, with the Southern Utah experiment farm, under the direction and management of the Agricultural College experiment station of Utah, and repealing chapter 85, laws of Utah, 1899.

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Central Utah experiment station established.** An experiment station, to be known as the Central Utah experiment station, is hereby established. This station shall be a branch of the State experiment station established as a department of the Agricultural College of Utah.

**Sec. 2. Southern Utah experiment farm.** The southern Utah experiment farm, located near St. George, Washington county, is hereby made a branch station of the State experiment station established as a department of the Agricultural College of Utah.

**Sec. 3. Class of experiments to be conducted.** Such experiments and demonstrations are to be undertaken and continued on the said stations and farms as bear on the development of the agricultural and horticultural interests of all sections having climatic conditions similar to those prevailing at the sites of the said stations or farms.

**Sec. 4. Central station, how located.** The location of the central Utah experiment station shall be determined under the supervision of the director of the experiment station, together with the State Board of Land Commissioners and the Board of Trustees of the Agricultural College, in Davis, Salt Lake, Utah, or Weber counties.

**Sec. 5. Site to be furnished.** The county or counties in which the station mentioned in section 4 is located, shall furnish to the State a clear title to sixty acres or more of good land, with sufficient water right, free, which shall be the site of the said experiment station. The Trustees of the Agricultural College shall together with the State Board of Land Commissioners be empowered to accept or reject any parcel of land offered for this purpose by any county; *provided*, that the Attorney General of the State shall pass upon the title of said land and water right before acceptance by said Trustees and State Board of Land Commissioners.

**Sec. 6. What experiments to be conducted.** The experiments shall be conducted on the said stations and farms with orchard, garden and field crops to determine the most profitable kinds; the best varieties of each kind; the best cultural methods; the proper use of irrigation

water; the possibility of improving promising varieties; the possibility of adapting imported varieties to Utah conditions; the possibility of improving their quality; their proper preparation for market; and their preservation by drying, canning and other means; and such other experiments shall be undertaken as will assist in establishing on a safe and profitable basis the agricultural and horticultural industry in the districts represented by the said stations and farms.

**Sec. 7. Reports to be published and distributed.** At least one report of the operations of the said stations and farms shall be printed annually. Six thousand copies or more of this report shall be distributed free of charge to interested citizens of the State, upon application.

**Sec. 8. Duties of director.** The director of the Utah Agricultural College experiment station under the direction of the Board of Trustees of the college, is hereby empowered and directed to prepare the stations and farms referred to in sections one and two for experimental purposes; to construct buildings, fences, flumes, drains and other necessary appliances for the inauguration and conducting of the investigations of the said stations and farms.

**Sec. 9. Appropriation.** The sum of eight thousand dollars is hereby appropriated for the establishment of the Central Utah experiment farm and the sum of six thousand dollars to be used on the Southern Utah experiment farm, for the years 1905 and 1906, out of any money in the State Treasury not otherwise appropriated, or as much thereof as may be necessary to carry out the purposes of this act, *provided however*, that in no event shall the sums hereinbefore appropriated, be exceeded, and that no part of the sum appropriated to either of said experiment farms, shall be used for the support or maintenance of the other.

**Sec. 10.** Chapter 85, laws of Utah, 1899, is hereby repealed.

Approved this 18th day of March, 1905.

**CHAPTER 133.****LIMITING COURSES OF INSTRUCTION IN UNIVERSITY.**

**An Act prescribing and limiting courses of instruction in the University of Utah, and amending section 2292 of the Revised Statutes of Utah, 1898.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 2292, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**2292. Courses of study in the University.** The University, until otherwise provided for by law, shall be the highest branch of the system of public education. As far as practicable its courses and methods shall be arranged to supplement the instruction of the subordinate branches of such system, with a view to afford a thorough education to students of both sexes in the arts, the sciences, literature, and the civil professions, including engineering; but the University must not include in its courses agriculture, horticulture, animal industry, veterinary science, domestic science and art (except as is or may be prescribed in the Normal course), and instruction in irrigation as applied to the measurement, distribution and application of water for agricultural purposes.

Approved this 20th day of March, 1905.

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**CHAPTER 134.****LIMITING COURSES OF INSTRUCTION IN AGRICULTURAL COLLEGE.**

**An Act prescribing and limiting courses of instruction in the Agricultural College and amending section 2087 of the Revised Statutes of Utah, 1898.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1.** That section 2087, Revised Statutes of Utah, 1898, be and the same is hereby amended to read as follows:

**2087. Courses of study in Agricultural college.** The courses of instruction in the Agricultural College, until otherwise provided for by law, shall comprise agriculture, horticulture, forestry, animal industry, veterinary science, domestic science and arts, elementary commerce, elementary surveying, instructions in irrigation as applied to the measurement, distribution and application of water for agricultural



purposes, military science and tactics, history, language, and the various branches of mathematics, physical and natural science and mechanic arts, with special reference to the liberal and practical education of the industrial classes. But the Agricultural College shall not offer courses in engineering, liberal arts, pedagogy, or the profession of law or medicine.

Approved this 20th day of March, 1905.

CHAPTER 135.

GENERAL APPROPRIATIONS.

An Act making appropriations for general purposes.

*Be it enacted by the Legislature of the State of Utah:*

SECTION 1. That the following sums of money are hereby appropriated out of any money in the State Treasury not otherwise appropriated for the purposes hereinafter expressed; for the calendar years 1905 and 1906:

STATE OFFICERS.

To the Governor:	
For salary for the calendar years 1905 and 1906.....	\$ 8,000.00
To the Governor's Private Secretary:	
For salary for the calendar years 1905 and 1906.....	3,000.00
To the Governor's Office:	
For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary....	2,000.00
To the Governor's Office:	
For capture or extermination of outlaws in Utah for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,500.00
To the Governor's Office:	
For the extradition of fugitives from justice, for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	3,000.00
To the Secretary of State:	
For salary for the calendar years 1905 and 1906.....	6,000.00
To the Office of Secretary of State: .	
For clerical assistance for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	7,500.00

To the Office of the Secretary of State:	
For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	3,000.00
To the State Auditor:	
For salary for the calendar years 1905 and 1906.....	4,000.00
To the Office of the State Auditor:	
For salary of bookkeeper, who shall also act as deputy for the calendar years 1905 and 1906 .....	2,400.00
To the Office of the State Auditor:	
For salary of clerk for marks and brands department for the calendar years 1905 and 1906 .....	1,200.00
To the Office of the State Auditor:	
For salary of special deputies for the calendar years 1905 and 1906 .....	2,400.00
To the Office of the State Auditor:	
For necessary traveling expenses of special deputies for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,000.00
To the Office of the State Auditor:	
For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	850.00
To the Office of the State Auditor:	
For the purchase of additional steel filing cases, or so much thereof as may be necessary .....	400.00
To the State Treasurer:	
For salary for the calendar years 1905 and 1906.....	3,000.00
To the Office of the State Treasurer:	
For clerical assistance for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,200.00
To the Office of the State Treasurer:	
For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary.....	300.00
To the Attorney General:	
For salary for the calendar years 1905 and 1906 .....	4,000.00
To the Office of the Attorney General:	
For assistant or stenographer, who shall also be clerk of the Board of Pardons, for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	2,400.00
To the Office of the Attorney General:	
For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,200.00
To the State Fish and Game Commissioner:	
For salary for the calendar years 1905 and 1906.....	2,000.00

<b>To the Office of the State Fish and Game Commissioner:</b>	
For necessary traveling and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	600.00
<b>To the Office of the State Fish and Game Commissioner:</b>	
For salary of special deputy Fish and Game Commissioner for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	2,000.00
<b>To the Office of the State Fish and Game Commissioner:</b>	
For salary of Superintendent of Fish Hatchery for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,200.00
<b>To the Office of the State Fish and Game Commissioner:</b>	
For assistance to the Superintendent of Fish Hatchery, purchase of eggs, distribution of fry, fish food, fuel, implements, superintendent's expenses, repair and construction of ponds, repair of hatchery building, and improvement of hatchery grounds, for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	2,500.00
<b>To the Office of the State Fish and Game Commissioner:</b>	
For maintenance of sub-hatching stations for the collecting of native fish eggs for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,000.00
<b>For the office of the State Fish and Game Commissioner for</b>	
<b>repair and improvement of dam at Burrinston State Fish Pond, Juab county, for the calendar years 1905 and 1906, or so much thereof as may be necessary.....</b>	<b>200.00</b>
<b>To the State Coal Mine Inspector:</b>	
For salary for the calendar years 1905 and 1906.....	4,000.00
<b>To the Office of the State Coal Mine Inspector:</b>	
For traveling and contingent expenses and purchase of instruments for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,000.00
<b>To the Office of the State Coal Mine Inspector:</b>	
For compensation and mileage for Board of Examiners of Mine Foremen for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	250.00
<b>To the State Engineer:</b>	
For salary for the calendar years 1905 and 1906.....	6,000.00
<b>To the Office of the State Engineer:</b>	
For necessary traveling and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,200.00

**To the Office of the State Engineer :**

For the purpose of carrying out the provisions of the irrigation law as passed at this session of the Legislature, for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 25,000.00

**To the State Bank Examiner :**

For salary for the calendar years 1905 and 1906 ..... 2,400.00

**To the Office of the State Bank Examiner :**

For necessary traveling expenses and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 200.00

**To the State Dairy and Food Commissioner :**

For salary for the calendar years 1905 and 1906 ..... 2,400.00

**To the Office of the State Dairy and Food Commissioner :**

For necessary traveling and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 1,000.00

**To the State Chemist :**

For salary for the calendar years 1905 and 1906 ..... 2,000.00  
For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 600.00

**To the State Board of Sheep Commissioners :**

For salary of three members of said board for the calendar years 1905 and 1906 ..... 3,000.00  
For traveling and contingent expenses of said board for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 1,500.00  
For the salary of the secretary of said board for the calendar years 1905 and 1906 ..... 1,500.00

**To the State Board of Equalization :**

For salary of four members of said board for the calendar years 1905 and 1906 ..... 6,400.00  
For the salary of the secretary of said board, as collector of taxes assessed against car and transportation companies for the calendar years 1905 and 1906 ..... 600.00  
For necessary traveling and contingent expenses, clerical assistance and all other necessary expenses of said board for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 5,000.00

**To the State Board of Pardons :**

For necessary contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 300.00

**To the State Board of Health:**

For the salary of Secretary of said Board for the calendar years 1905 and 1906 .....	4,000.00
For salary of stenographer and one clerk for the calendar years 1905 and 1906 .....	3,500.00
For necessary expenses and for the purchase of laboratory materials for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,000.00
For contingent expenses of said board, including rent, janitor, and expense of special medical inspectors for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	8,000.00

**To the State Board of Park Commissioners:**

For necessary expenses and salaries of said board as provided by law, approved March, 1905, or so much thereof as may be necessary .....	2,000.00
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**To the Deseret Agricultural and Manufacturing Society:**

For operating expenses, awards and premiums for presentation at State Fairs to be held in the calendar years 1905 and 1906, or so much thereof as may be necessary..	15,000.00
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For completion of new building .....	20,000.00
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**To the State Board of Horticulture:**

For salary of three members for the calendar years 1905 and 1906 .....	2,400.00
For the salary of Secretary for the calendar years 1905 and 1906 .....	2,400.00
For necessary traveling and contingent expenses of said board for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,600.00

**To the National Guard of Utah:**

For salary of Adjutant General for the calendar years 1905 and 1906 .....	1,000.00
For maintaining armories and care of stores and necessary supplies for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	4,500.00
For the holding of two encampments of said Guard not exceeding eight days each for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	15,000.00
For insurance, printing, stationery, freight and necessary expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	5,000.00
For repairs on ordinance and equipment for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	500.00

For public celebrations and funerals for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,000.00
For the use of the armory board for armory purposes, as provided for by law approved March, 1905 .....	20,000.00
<b>To the State Bureau of Statistics:</b>	
For salary of Commissioner for the calendar years 1905 and 1906 .....	3,000.00
For clerical and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	4,500.00
<b>To the State Board of Land Commissioners:</b>	
For salary for four members of said board for calendar years 1905 and 1906 .....	9,600.00
For the salary of the Secretary of said board for the calendar years 1905 and 1906 .....	3,600.00
For necessary clerical assistance, appraising and selecting State lands and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	24,000.00
<b>To the State Board of Education:</b>	
For necessary traveling and contingent expenses, clerical assistance and for printing for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,850.00
<b>To the State Board of Examiners:</b>	
For rent of State offices, for the calendar years 1905 and 1906 .....	8,000.00
For necessary contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	500.00
For the care and maintenance of the capitol grounds for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	2,000.00
For printing and binding the laws of the Sixth Session of the State Legislature, or so much thereof as may be necessary .....	1,000.00
For furnishing assessment rolls and tax-payers statements to the several counties for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,200.00
For binding the Revised Statutes of Utah of 1898, or so much thereof as may be necessary .....	140.00
<b>To the State Board of Loan Commissioners:</b>	
For interest on State Bonds \$250,000 at 5 per cent interest per annum .....	25,000.00

For interest on State bonds \$200,000 at 4 per cent interest per annum.....	16,000.00
For interest on State bonds \$150,000 at 3½ per cent interest per annum .....	10,500.00
For interest on State bonds \$300,000 at 3¼ per cent interest per annum .....	19,500.00
For interest on loans from University land fund for the year from January 1st, 1904 to July 1st, 1904.....	1,250.00
For necessary contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	100.00
To redemption fund to take up bond issue of 1892.....	50,000.00

## JUDICIAL DEPARTMENT.

## To the Judges of the Supreme Court:

For salary of three Judges for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	30,000.00
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## To the Supreme Court:

For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	1,200.00
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## To the Supreme Court:

For salary of stenographer to the Supreme Court for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	2,400.00
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## To the Clerk of the Supreme Court and ex-officio Law Librarian, and including compensation of all necessary assistance; for the calendar years 1905 and 1906, or so much thereof as may be necessary .....

4,200.00

## To the Reporter of Decisions of the Supreme Court:

For salary for the calendar years 1905 and 1906.....	1,600.00
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## To the Reporter of Decisions of the Supreme Court:

For contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	700.00
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## To the State Library:

For the purchase of books, and general maintenance for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	4,000.00
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## To the Judges of the District Courts:

For salary of ten Judges for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	80,000.00
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## To the District Court Stenographers:

For mileage and per diem of stenographers for ten districts for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	14,000.00
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To the several District Attorneys:

For salary of seven district attorneys for the calendar years 1905 and 1906 ..... 25,000.00

To the several District Attorneys:

For actual and necessary traveling and contingent expenses for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 2,000.00

To the Clerk of the District Attorney for the Third Judicial District: for services for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 1,800.00

To the several counties of the State:

For the payment of juror and witness certificates issued by the District Courts in criminal cases for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 50,000.00

For the payment of State and State portion of the salaries of county assessors and county treasurers and their deputies and assistants for the calendar years 1905 and 1906, as provided by laws of Utah 1903, or so much thereof as may be necessary ..... 55,000.00

To the several Counties of the State:

For one-half bounties paid on wild animals, birds, gophers, etc., or so much thereof as may be necessary for the calendar years 1905 and 1906 ..... 5,000.00

For bounties on wild animals for the years 1905 and 1906, or so much thereof as may be necessary, as provided by an act of the legislature approved March, 1905, 20,000.00

For bounties on grasshoppers for the calendar years 1905 and 1906, or so much thereof as may be necessary, as provided for by chapter 77, laws of Utah, 1903..... 7,500.00

To the several counties of the State for expense of Sheriffs in conveying convicts to the State Prison for the calendar years 1905 and 1906, or so much thereof as may be necessary ..... 2,000.00

To the several counties of the State for one-half of the cost of revising and preparing maps and plats for county assessors' office for the calendar years 1905 and 1906, or so much thereof as may be necessary..... 3,500.00

LEGISLATIVE EXPENSES, 1905.

To Salt Lake City for rent of legislative halls, committee rooms including light, heat and janitor service for the sixth regular session of the Legislature of Utah..... 1,200.00



To the Breeden Office Supply Company:	
For legislative stationery and supplies as approved by the State Board of Examiners .....	78.53
To the Utah Lithographing Company:	
For stationery for the Legislature as approved by the State Board of Examiners .....	134.00
To Kelly & Co.:	
For legislative supplies as per contract and as approved by the State Board of Examiners .....	389.60
To the Co-op Furniture Co.:	
For carpets, matting, etc., used in furnishing Representative Hall and as approved by the State Board of Examiners .....	359.60
To Margetts Brothers:	
For legislative supplies as per contract and as allowed by the State Board of Examiners .....	113.53
To Dinwoodey Furniture Co.:	
For two desks as approved by the State Board of Examiners .....	56.00
To the Knapton Curtis Painting Co.:	
For calcimining Representative Hall as per contract and as approved by the State Board of Examiners.....	72.00
To the Remington Typewriter Co.:	
For rental of typewriters as approved by the State Board of Examiners .....	30.00
To the Tribune Job Printing Co.:	
For printing bills for the Sixth regular session of the Legislature of the State of Utah, or so much thereof as may be necessary, provided that the bills for said printing shall first be examined and approved by the State Board of Examiners .....	3,500.00
To the Star Printing Company:	
For printing reports of State officers and State institutions for the biennial period ending December 31, 1904, or so much thereof as may be necessary, <i>provided</i> , that the bills for said printing shall first be examined and approved by the State Board of Examiners .....	11,500.00
For printing cards for legislature .....	8.30
To the Deseret News:	
For printing and binding daily minutes and printing permanent Journals of both houses of the Sixth regular session of the Legislature; and for binding legislative journals and reports of State officers and public institutions, or so much thereof as may be necessary, <i>provid-</i>	

<i>ed</i> , that all bills for said printing and binding shall be first examined and approved by the State Board of Examiners .....	5,538.15
To the Deseret News:	
For legislative stationery as approved by the State Board of Examiners .....	104.75
To Kelly and Company:	
For engrossing paper .....	5.50

## DEFICITS.

To the several counties of the State:	
For half salaries of certain county officers for the years 1903 and 1904 .....	7,500.00
To the State Sheep Inspector, for salary from January 1st, 1905, to March 1st, 1905 .....	250.00
For the necessary traveling and contingent expenses of said Inspector during said period on vouchers to be approved by the State Board of Examiners .....	50.00
To the Secretary of the State Board of Sheep Commissioners:	
For services rendered for months of January and February, 1905 .....	100.00
To the State Mental Hospital:	
For deficit incurred prior to December 31st, 1904, and as recommended by the Governor, January 20, 1905 .....	1,200.00
To Moroni Heiner, State Dairy and Food Commissioner, for expenses incurred and as allowed by the State Board of Examiners .....	35.00
To M. A. Breeden, Attorney General:	
For excess of amount appropriated for contingent expenses of said office for the years 1903 and 1904 and as allowed by the State Board of Examiners .....	300.00
To W. J. Beatie, State Bank Examiner:	
For necessary traveling expenses over amount appropriated and as allowed by the State Board of Examiners .....	50.00
To the State Board of Corrections:	
For necessary expenses in the maintenance of the State Prison for the remainder of the year after the regular appropriation had been exhausted and as allowed by the State Board of Examiners .....	7,500.00
To the Louisiana Purchase Exposition Commission:	
For deficit incurred, or so much thereof as may be necessary .....	7,500.00
To the Agricultural College of Utah:	
For amount required to install transformers and neces-	

sary equipment for light, etc., from the City of Logan at a reduced rate and as allowed by the State Board of Examiners .....	5,288.00
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To the University of Utah:

For the completion and equipment of the School of Mines Building as allowed by the State Board of Examiners	5,000.00
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STATE INSTITUTIONS.

For the State School for the Deaf and the Dumb and the Blind:

For general maintenance for the calendar years 1905 and 1906, beginning July 1st, 1905 and ending June 30, 1907 or so much thereof as may be necessary .....	52,000.00
For repairs and improvements for the calendar years 1905 and 1906, or so much thereof as may be necessary..	2,000.00
For books and necessary apparatus during said period, or so much thereof as may be necessary .....	500.00
For the purchase of one steam mangle, or so much thereof as may be necessary .....	400.00
For the erection and purchase of bakery, or so much thereof as may be necessary .....	1,000.00
For the erection of a Superintendent's cottage, or so much thereof as may be necessary .....	4,000.00

For the State Industrial School:

For general maintenance for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	35,000.00
For manual training department for the calendar years 1905 and 1906, or so much thereof as may be necessary..	8,000.00
To connect with the Ogden City Water Works system, or so much thereof as may be necessary .....	3,000.00
For betterments, improvements and repairs and purchase of a library, or so much thereof as may be necessary .....	2,000.00

For the State Mental Hospital:

For the general maintenance and care and treatment of patients for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	100,000.00
For necessary improvements and repairs and erection of toilets and water closets for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	10,000.00
To necessary improvements and repairs for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	5,000.00
For insurance on buildings, etc., for the calendar years 1905 and 1906, or so much thereof as may be necessary	3,000.00

**For the State Board of Corrections:**

For general maintenance of the State Prison for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	80,000.00
For gratuities to discharged convicts, for the calendar years 1905 and 1906, or so much thereof as may be necessary .....	3,000.00
For the erection and completion of trusty and milk house combined, or so much thereof as may be necessary .....	2,500.00
For the erection and completion of an armory and necessary equipment for same, or so much thereof as may be necessary .....	850.00
For paints, oils, glass and brushes to be used at said State Prison or so much thereof as may be necessary..	600.00
For insurance on said buildings for the calendar years 1905 and 1906, or so much thereof as may be necessary	750.00
For the erection and completion of six houses to rent to guards, or so much thereof as may be necessary .....	6,000.00

**University of Utah:**

For general maintenance of School of Arts and Sciences, School of Mines, State Normal School, Kindergarten and Domestic Science Departments, apparatus, books, etc., buildings and extension of shops, improvements of University buildings and grounds for the calendar years commencing July 1st, 1905 and ending June 30, 1907....	246,000.00
To the erection of a gymnasium building .....	15,000.00

**Branch Normal at Cedar City, Utah:**

For maintenance for two academic years beginning July 1st, 1905, and ending June 30th, 1907, or so much thereof as may be necessary .....	35,000.00
For the erection of boiler house, moving boilers, water closets, etc., or so much thereof as may be necessary....	5,000.00
For the purchase of additional water rights to be used at said Branch Normal, or so much thereof as may be necessary .....	600.00

**Agricultural College:**

For general maintenance for two academic years, commencing July 1st, 1905 and ending June 30, 1907, for equipment, printing, insurance, and such new buildings as may be deemed necessary .....	130,000.00
For repairs and improvements .....	10,500.00

MISCELLANEOUS CLAIMS.

To the several parties hereafter named for claims filed with and allowed by the State Board of Examiners:

E. C. Bagley, for refund of land purchased from State, upon which land mineral was afterwards discovered to be paid out of the same fund into which the said money was paid	283.80
George T. Badger, for refund of money paid to the State for lands on which the State had no title to be paid out of the same fund into which the said money was paid. . . . .	40.76
Ralph A. Badger, for refund of money paid the State for land to which the State had no title to be paid out of the same fund into which the said money was paid. . . . .	2,274.23
J. A. Edwards, State Auditor, for vouchers filed for additional services and printing as per vouchers, with reference to bounty report required to be made to the State Legislature . . . . .	91.00
William Gibson, for refund of money paid the State for land upon which the State had no title to be paid out of the same fund into which the said money was paid. . . . .	327.26
Tooele County, for one-half actual cost of revising assessor's maps for 1904 . . . . .	604.00
Tooele County, for the refund of State and State school taxes for 1903, erroneously paid to State . . . . .	32.40
Joshua Greenwood, for taxes overpaid to the State for the year 1898 . . . . .	82.02
Beaver County, for taxes overpaid the State. . . . .	6.95
Iron County, for refund of taxes overpaid the State. . . . .	14.74
Nephi M. Savage, for refund of taxes overpaid the State for 1904 . . . . .	31.16
Joshua A. Arthur, for refund of taxes overpaid the State. . .	2.07
Beaver County, for one-half the cost of preparing plats and maps for the year 1904 . . . . .	600.00
Weber County, for one-half the cost of preparing maps and plats for November and December, 1904 . . . . .	112.75
A. A. Hinckley, for taxes overpaid the State in 1895 and 1896	68.93
H. G. Blumenthal, for shower baths furnished the State Mental hospital . . . . .	401.60
Morgan County, for refund of taxes erroneously paid the State . . . . .	82.10
J. M. Lauritzen, to amount overpaid the State for taxes . . .	168.32
A. S. Wood, Sheriff San Juan County, for services in the case of the State vs. Chas. Botha . . . . .	101.00
L. P. Palmer, ex-clerk Supreme Court, express on books. . . .	2.15
Logan and Richmond Irrigation District:	

For damages on account of seepage and slides from the

Agricultural College farm, Logan, Utah, <i>provided</i> that said parties sign and execute to the State of Utah a written release as annexed to said claim and filed with the State Auditor for a period of at least 25 years . . . . .		5,000.00
Silas Thompson, for relief on account of injury received at the hands of unknown assassins as Deputy Sheriff; <i>provided</i> that said Thompson sign and execute a written release for all future claims against the State. . . . .		500.00
M. Beauregard, for defending title to land bought of the State . . . . .		686.00
To the following named persons in full for all services, etc., and as recommended by the State Bar Association in the case of the State vs. Ricey H. Jones:		
George F. Goodwin, referee . . . . .		150.00
F. E. Barker, stenographer . . . . .		57.75
Martha A. Allen, attendance and mileage as witness. . . . .		3.30
Martha May, attendance and mileage as witness . . . . .		3.30
Ludwig H. Berg, one day's attendance and mileage as witness . . . . .		1.70
Ira G. Allen, one day's attendance and mileage as witness . . . . .		3.10
To the several parties hereafter named for injuries and medical services under section 1475, Revised Statutes, 1898, <i>provided</i> that each of said parties sign and execute in the State of Utah a release for all further claims or demands against said State:		
Curtis Y. Clawson, for injuries sustained . . . . .		28.00
Albert G. Jackson, for injuries and medical attendance . . . . .		150.00
Richard R. Grant, for injuries and medical attendance. . . . .		85.00
To the following persons for return of money paid for school lands settled upon prior to March 1st, 1869 to be paid out of the same fund into which the said money was paid, viz: the State School Land Fund, <i>provided</i> , that before said claims shall be paid the State Board of Examiners shall be satisfied by evidence that the claims are properly allowable and payable under the provisions of chapter 88. laws of Utah, 1899, <i>provided</i> that all of said claims shall be audited by said Board as to correctness of claims, and the amount and to whom due, before the Auditor shall be authorized to issue his warrant therefor and said Board is hereby authorized to withhold payment on any claim or claims hereafter specified that appears to be illegal:		
Benjamin E. Williams . . . . .		750.00
Margaret Chisholm . . . . .		200.00

Cesare Gine .....	267.75
John W. Chambers .....	200.00
Edwin Smout .....	200.00
W. S. McCornick .....	2,825.25
Mrs. Jude Allen .....	50.00
Nephi Jeppersen .....	70.20
Nephi Jeppersen .....	54.06
William N. Nalder .....	1,620.00
Simon Bamberger .....	171.90
William B. Nalder .....	2,340.00
Alfred Hansen .....	80.40
A. G. Soderberg .....	51.60
Agnes E. Bjorklund .....	18.70
Christen Olsen .....	6.10
Thomas Werrett .....	134.70
Peter Jensen .....	54.13
Magnus Swenson .....	17.01
N. P. Tompson .....	22.11
Nils Anderson .....	266.34
Ludwig Larsen .....	251.43
William A. Nelson .....	246.87
D. J. Cook .....	5.10
Hans Jonsson .....	67.62
William N. Nalder .....	540.00
James Howard .....	36.12
Jabez W. West .....	149.19
George R. Jones .....	16.83
Daniel W. Lloyd .....	18.89
Mrs. Joseph C. Hansen .....	1,181.25
James Winter .....	945.00
Hans C. Kofod .....	412.50
Joseph S. Stone .....	105.00
C. B. Chadwick .....	585.12
James Bryson .....	18.36
James Bryson .....	27.82
James Bryson .....	11.02
John C. Jensen .....	150.00
Victor C. Stephenson .....	59.05
John Knudson .....	240.00
Peter N. Dahl .....	450.00
Mrs. N. C. Christensen .....	53.43
Soren C. Jensen .....	135.00
Jens C. Christensen .....	400.00
F. M. Elmer .....	862.50
Andrew Hansen .....	144.42

Neil Anderson .....	211.49
John Benson .....	105.06
James Wardel .....	436.72
Isaac Goff, Jr. ....	237.45
Engbert Hanson .....	68.16
Kate Steiner .....	81.51
Hannah L. Lapish .....	154.20
H. S. Wennerstrom .....	144.00
Thomas Batt .....	201.00
Mary Ehlers .....	87.50
Josephine Johnson .....	15.03
Mrs John E. Eklund .....	63.93
Thomas Hanrahan .....	72.45
Helena Johnson .....	8.49
Daniel Jenkins .....	88.80
Ira Beckstead .....	51.10
James H. Nelson .....	313.15
John Anderson .....	92.73
Mary J. Boyd .....	6.00
Charles W. Olsen .....	41.16
Olof Ha Kanson .....	10.71
Ellen Phillips .....	82.70
Oke Oberg .....	17.10
Nels Person .....	14.85
Mrs. James D. Paulson .....	9.45
Charles M. Hansen .....	18.03
N. Lind .....	7.32
S. J. Williams .....	13.95
Mrs. Peter Malstrom .....	4.50
Ralph Jenkins .....	332.88
George Hunt .....	90.81
Mrs Lars C. Christensen .....	392.67
Moroni Mortensen .....	324.87
Moroni Mortensen .....	172.91
Margaret A. Hansen .....	374.07
James Briggs .....	1,924.42
Bianca Johnston .....	1,828.93
James Briggs .....	1,623.03
Moroni Mortensen .....	122.91
Willard Cragun .....	174.48
Jacob Thomas .....	428.05

The following amounts are hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, for the purpose of improving highways and bridges in the several counties hereinafter named, and shall be



expended under the direction of the County Commissioners in each county, namely:

For Kane County .....	2,000.00
For Uintah County .....	2,000.00
For Washington County .....	2,000.00
For Carbon County .....	2,000.00
For Summit County .....	2,000.00
For Summit County for unexpended balance remaining on hand from the appropriation of 1903.....	1,075.80
For Tooele County .....	2,000.00
For Garfield County .....	2,000.00
For San Juan County .....	2,000.00
For Emery County .....	2,000.00
For Grand County .....	2,000.00
For Rich County .....	2,000.00
For Millard County .....	2,000.00
For Morgan County .....	2,000.00
For Sevier County .....	1,850.00
For Cache County .....	1,850.00
For Piute County .....	1,850.00
For Beaver County .....	1,850.00
For Sanpete County .....	1,850.00
For Box Elder County .....	1,850.00
For Utah County .....	1,700.00
For Weber County .....	1,700.00
For Iron County .....	1,700.00
For Wayne County .....	1,700.00
For Wasatch County .....	1,700.00
For Juab County .....	1,500.00
For Juab County for unexpended balance remaining on hand from the appropriation of 1903 .....	1,000.00
For Salt Lake County .....	1,250.00
For Davis County .....	1,250.00

The State Auditor shall draw his warrant upon the State Treasury in favor of the person or persons who have performed work upon the immediate construction of such roads, and who holds certificates signed by the chairman of the Board of County Commissioners and the person having the immediate charge of the work as hereinbefore provided, certifying that the work has been performed by such person or persons.

Sec. 2. The State Auditor is authorized and required to cover into the State Treasury all unexpended balances of appropriations made by all previous State Legislatures after all legal claims, chargeable to the several appropriations, are fully discharged and satisfied,

and to balance the several accounts on his books by charging the same and crediting the appropriation account.

Sec. 3. It shall be unlawful for any State Officer or State Board of an institution in the State to incur or contract for any indebtedness or to create any deficiency in excess of any appropriation made by law, except in case of actual necessity and only upon the written authority and consent of the State Board of Examiners, previous to incurring or contracting for any such indebtedness.

Sec. 4. It shall be unlawful for the State Auditor to audit or draw a State warrant in payment of any claim against the State unless an appropriation has been previously made for such purposes, or unless authorized by law.

Sec. 5. All bills, vouchers, statements of claims or other evidences of indebtedness against the State, for any money appropriated herein, shall be filed with the State Auditor before the warrants are drawn for the payment thereof.

Sec. 6. All salaries of State officers or members of State Boards shall be paid quarterly, and all other money herein appropriated shall be paid as provided by law.

Sec. 7. The fees and salaries of all State officers and employees mentioned in section one of this act shall be full compensation for all services rendered the State by such officers and employees during the calendar years 1905 and 1906.

Sec. 8. No money or other claim against the State the payment of which is provided for in this act, shall be duplicated if it shall appear that it is covered by appropriation heretofore made, or by special laws.

Sec. 9. This act shall take effect upon approval.

Approved this 20th day of March, 1905, with the exception of the items shown in the statement appended hereto.

Note. The following items, contained in the foregoing appropriation bill, were disapproved by His Excellency, the Governor.

The following amounts, for the purpose of improving highways and bridges in the several counties named:

For Kane County .....	\$ 2,000.00
For Uintah County .....	2,000.00
For Carbon County .....	2,000.00
For Summit County .....	2,000.00
For Summit County, for unexpended balance remaining on land from the appropriation of 1903 .....	1,075.80
For Tooele County .....	2,000.00

<b>For</b> Garfield County .....	2,000.00
<b>For</b> Emery County .....	2,000.00
<b>For</b> Rich County .....	2,000.00
<b>For</b> Millard County .....	2,000.00
<b>For</b> Morgan County .....	2,000.00
<b>For</b> Sevier County .....	1,850.00
<b>For</b> Cache County .....	1,850.00
<b>For</b> Piute County .....	1,850.00
<b>For</b> Beaver County .....	1,850.00
<b>For</b> Sanpete County .....	1,850.00
<b>For</b> Box Elder County .....	1,850.00
<b>For</b> Utah County .....	1,700.00
<b>For</b> Weber County .....	1,700.00
<b>For</b> Iron County .....	1,700.00
<b>For</b> Wayne County .....	1,700.00
<b>For</b> Wasatch County .....	1,700.00
<b>For</b> Juab County .....	1,500.00
<b>For</b> Juab County for unexpended balance remaining on hand from the appropriation of 1903 .....	1,000.00
<b>For</b> Salt Lake County .....	1,250.00
<b>For</b> Davis County .....	1,250.00
<b>For</b> the erection of a Superintendent's cottage at the State School for the Deaf and Dumb and the Blind, or so much thereof as may be necessary .....	4,000.00
<b>For</b> the erection and completion of trusty and milk house combined at the State Prison, or so much thereof as may be necessary .....	2,500.00
<b>For</b> the purchase of additional steel filing cases, or so much thereof as may be necessary, for the office of the State Auditor .....	400.00



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